

MINUTES OF THE House COMMITTEE ON Transportation

The meeting was called to order by Representative Larry Wilbert at  
Vice Chairperson

1:30 ~~xxx~~ a.m./p.m. on March 20, 1985 in room 519-S of the Capitol.

All members were present except: Representative John Sutter, excused.

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:

Sgt. Bill Jacobs, Kansas Highway Patrol  
Mrs. Mary Turkington, Kansas Motor Carriers Association  
Mr. Ron Desch, Kansas Department of Revenue  
Mr. Harley Duncan, Kansas Department of Revenue  
Ms. Shari Fiest, Kansas Corporation Commission  
Mr. Jim Sullins, Kansas Motor Car Dealers Association  
Mr. Ray Rathert, State of Kansas Insurance Department  
Mr. Steve Wiechman, Kansas Automotive Dismantlers Association

The meeting was called to order by Vice-Chairman Larry Wilbert, and the first order of business was a hearing on SB-318 concerning vehicles with gross weight in excess of that for which registered.

Sgt. Bill Jacobs of the Kansas Highway Patrol testified in favor of SB-318. (See Attachment 1)

Sgt. Jacobs said the bill as written would require the owner or operator of a vehicle in violation of their maximum gross weight to pay the difference in the cost of their registered weight and the weight at which they were actually operating, plus an additional \$75 fine.

Mrs. Mary Turkington of the Kansas Motor Carriers appeared in support of SB-318, and urged passage of the bill.

Mr. Ron Desch, of the Revenue Department testified favorably concerning SB-318.

The hearing on SB-318 was concluded.

The next order of business was a hearing on SB-321 concerning vehicle dealer license plates.

Mr. Harley Duncan of the Kansas Department of Revenue, presented favorable testimony concerning SB-321. (See Attachment 2)

Mr. Duncan said SB-321 attempts to reduce potential misuse of dealer tags, and outlined suggested amendments to the bill.

Ms. Shari Fiest of the Kansas Corporation Commission appeared on behalf of Mr. Bill Green, in support of SB-321. (See Attachment 3)

She said the KCC supports Section 5 of SB-321, which was added by the Senate Transportation and Utilities Committee to clarify the intent of SB-591 which was enacted during the 1984 legislative session. 1984 session SB-591 pertained to regulation of local wreckers by the KCC.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,  
room 519-S, Statehouse, at 1:30 ~~xxx~~/p.m. on March 20, 1985

Mr. Jim Sullins, of the Kansas Motor Car Dealers Association, testified in support of SB-321. (See Attachment 4)

Mr. Sullins told the Committee the Kansas Motor Car Dealers Association would like to suggest an amendment which would state that anyone who does not sell at least 12 vehicles during a calendar year may purchase one dealer license plate.

Mr. Ray Rathert of the State of Kansas Insurance Department testified on SB-321. (See Attachment 5)

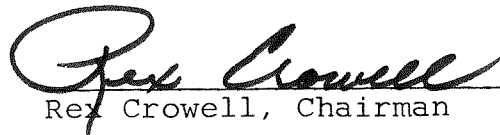
Mr. Rathert said the cost of the bond referred to in SB-321 is estimated to be \$10 per thousand of the penal amount, and the cost of a \$20,000 bond would be \$200.

He referred to Section 2, subsection (i)(A) on Page 9 of SB-321 and stated the negative connotation of this provision will automatically eliminate numerous carriers from consideration of the bond.

Mr. Steve Weichman, attorney representing the Kansas Automotive Dismantlers and Recyclers Association, gave favorable testimony concerning SB-321. (See Attachment 6)

Mr. Wiechman proposed the following language be added at Line 422 after the Senate Committee amendment: "or to any salvage vehicle dealer who has not reported to the Division the purchase of at least five motor vehicles for dismantling, disassembling or recycling or the surrender of at least five vehicle titles to the Division."

The meeting was adjourned at 3:20 p.m.

  
Rex Crowell, Chairman

GUEST LIST

COMMITTEE: Transportation

DATE: 3-20-85

PLEASE PRINT

NAME	ADDRESS	COMPANY/ORGANIZATION
Robin Jennison	RR1 Box 132 Healy KS	LANE County Farm Bureau
Robert Waldman	Grinnell Ks	Gove Co Farm Bureau
Ron CONNER	Dighton, Ks	Lane County Farm Bureau
Joe Conventh	Dodge City Ks	Farm Bureau
Maxine Conventh	Dodge City, Ks	Farm Bureau
John DURKER	Dodge C. Ty. Ks	FARM BUREAU
Marvin Hampton	" " "	" " "
Floris Jean Hampton	" " "	" " "
Betty Jo Denton	Minneola Ks	Farm Bureau
Winfield Denton	Minneola Ks	Farm Bureau
Ron Desch	State of Bidg	Dept of Rev.
RALPH OSTMEYER	GRINNELL, Ks.	FARM BUREAU
Ray BEESLEY	QUINTER, Ks	Farm BUREAU
Albert & Dorothy Querbach	Houston, Ks.	Farm Bureau
Patricia M. Wiechman	Topeka, Ks.	Ks. Automotive Dismantlers & Recyclers Assn.
Steven R. Wiechman	Topeka, Ks.	Ks. Automotive Dismantlers & Recyclers Assn.
PAUL R. GUEVARA	Topeka, Ks.	KDOT
Shari M. Jost	" "	KCC
Michael Wolff	Lawrence	Intern - Morris

SUMMARY OF TESTIMONY

BEFORE THE HOUSE COMMITTEE ON TRANSPORTATION

SENATE BILL 318

Presented by the Kansas Highway Patrol  
(Sergeant William A. Jacobs)

March 20, 1985

The Patrol requested introduction of Senate Bill 318 and urges favorable consideration of the bill.

The bill concept is simply to require persons who are hauling weight in excess of their registered gross weight limitation to properly register their vehicles for the proper classification needed for their particular needs.

The bill as written would require the owner or operator of a vehicle in violation of their maximum gross weight to pay the difference in the cost of their registered weight and the weight at which they were actually operating, plus an additional \$75.00 fine. The fine is intended to be a deterrent to violation of the registration laws and an incentive to voluntary compliance. It would make it less lucrative for an owner or operator to intentionally under-register their maximum gross weight limitation to save the cost of a higher weight limit.

3/20/85  
Attach. 1

March 6, 1985

MEMORANDUM

TO: The Honorable Rex Crowell, Chairman  
House Committee on Transportation

FROM: Harley T. Duncan  
Secretary of Revenue

RE: SB 321

DATE: March 20, 1985

Thank you for the opportunity to appear before you on SB 321. The Department of Revenue supports the intent of this measure.

**Introduction**

SB 321 is the result of a recommendation made by the House Ways and Means Subcommittee on the Department of Revenue during its review of our budget last year. That Subcommittee requested that the Department establish an ad hoc committee to review the issuer of dealer license plates. The Subcommittee was concerned that dealer license plates were being abused; they were also interested in the issue of a "full privilege" dealer tag. The Department has utilized the Dealer Review Board as the ad hoc committee to conduct the study, and it is the recommendations of the Review Board that appear before you in SB 321.

The Dealer Review Board consists of eight members appointed by the Governor as follows: two new vehicle dealers; two used vehicle dealers; one salvage vehicle dealer; one representative of a first or second stage manufacturer; and two members from the public at large. The Department felt that these individuals were best qualified to speak to possible abuses of dealer tags and the suggest changes which would be effective yet not onerous. The Department provided staff support to the Board in this endeavor.

Other concern about misuse of dealer plates is evidenced by a 1983 Legislative Post Audit examination of the subject.

**Section-by-Section Analysis**

Section 1 (page 6, lines 209-215) amplifies the definition of an established place of business (which must be maintained by all licensed dealers) to require that there must be located within the required structure an operable telephone which must also be listed in the name of the dealership with the telephone

3/20/85  
Attach. 2

company and the telephone book. It also requires that the hours of operation be posted on or adjacent to the structure.

Section 2 (page 10, lines 355-371) provides that a surety bond in the amount of \$20,000 shall be required of all licensees. The bond is to be conditioned on compliance with all laws applicable to the licensee and to protect against any loss that may be incurred by persons doing business with the licensee when the licensee's acts are grounds for suspension or revocation of the license. A survey conducted by the Department indicates that 29 of 42 responding states require a bond to be posted by dealers. The bond amounts ranged from \$2,000 to \$50,000 with 10 states having a \$20,000 or higher requirement and 13 other states requiring a \$10,000-\$15,000 bond.

Section 2 (page 11, line 387) also amplifies the current signing requirement by providing that lettering on the sign must be at least 6 inches in height.

Section 3 (page 11, lines 413-415) increases the fee charged on the first dealer license plate from \$10 under current law to \$250. All other plates issued to the dealership would continue to cost \$10 plus a \$.50 reflectorization fee. This section (lines 419-422) also provides that after one year as a licensed dealer, no dealer will be issued any dealer license plates unless the dealer has sold at least five vehicles in the preceding year. The basic intent of this proposal is to guard against the potential for a person to license himself/herself as a dealer solely as a means of avoiding the property tax liability and registration fees on his/her vehicles. With the current \$50 annual license and a \$10 license plate, it is felt that this potential exists. A \$250 fee for the first dealer plate would cause Kansas to have the most expensive first tag, but the Committee should also know that the \$50 licensing fee is among the lower of all states as is the current \$10 dealer tag fee. A Department of Revenue survey indicates that approximately 12 states require a minimum number of sales as a prerequisite to acquiring dealer plates.

Section 3 (page 12, lines 440-443) adds a requirement to current law to provide that those sales persons who may legitimately drive cars with dealer tags are those who are working at the established place of business at least twenty hours a week. This is intended to avoid situations the Department has encountered in which a college student has claimed that he/she is a sales person and authorized to drive on a dealer tag.

Section 4 (pages 13-14, lines 477-523) establishes a new type of dealer tag, denoted as a "full privilege" tag. The full privilege tag would be used in lieu of a regular registration and

tag and would allow the dealer to assign a vehicle in his/her inventory with a full privilege tag to any person he desired. Such vehicle could be operated without payment of property tax or sales tax and without titling of the vehicle. The fee for each full privilege tag would \$350 annually, and no more than 10 full privilege tags could be purchased by any dealer. Receipts are to be divided evenly between the county in which the dealer is located and the state. State proceeds are to be credited to the Vehicle Dealers and Manufacturers Fee Fund (a new fund) which is to be expended for enforcement of dealer laws in accordance with appropriation acts of the Legislature.

The basic purpose of the full privilege tag is to allow dealers to provide a vehicle to persons other than those authorized to use dealer tags under current law without having to register and title the vehicle. It is their position that having to title the vehicle creates the largest problem in this type of transaction because manufacturer warranties begin to run when the vehicle is titled; also, once titled, a vehicle no longer qualifies for manufacturer financing.

Because of the privilege granted with such a tag, the fee for such tags must be considered carefully. The Department contends that the fee should reflect both local property taxes as well as sales tax on the vehicle because both would be due if a dealer were to take a vehicle out of his/her inventory and put a regular tag on it under current law. Our position has been that a fee of \$500 is appropriate, but we find the \$350 contained in the legislation to be an acceptable compromise.

### Conclusion

In short, SB 321 attempts to reduce potential misuse of dealer tags from several perspectives. Through the signing and telephone requirements, it attempts to insure that those who are licensing as dealers maintain a **bona fide** place of business. Through the increased dealer tag fee and the bonding requirement, the legislation deters those who may become a dealer solely to avoid property tax, sales tax and other responsibilities normally associated with vehicle ownership. Also, the bonding requirements provide a degree of protection to consumers from illegal or fraudulent dealers. Finally, by dedicating certain proceeds to dealer law enforcement, the legislation holds potential to enable the Department to provide better coverage for our current responsibilities.

I would be glad to attempt to answer any questions.



*Sherri Feist*

JOHN CARLIN  
MICHAEL LENNEN  
MARGALEE WRIGHT  
KEITH R. HENLEY  
JUDITH A. McCONNELL  
BRIAN J. MOLINE

*Governor  
Chairman  
Commissioner  
Commissioner  
Executive Secretary  
General Counsel*

*State Corporation Commission*

Fourth Floor, State Office Bldg.  
Ph. 913/296-3355  
TOPEKA, KANSAS 66612-1571

STATEMENT PRESENTED ON MARCH 20, 1985, TO THE HOUSE  
TRANSPORTATION COMMITTEE BY THE STATE CORPORATION  
COMMISSION OF KANSAS ON SENATE BILL NO. 321

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I AM BILL GREEN, ADMINISTRATOR OF THE TRANSPORTATION DIVISION OF THE STATE CORPORATION COMMISSION. I APPEAR TODAY IN SUPPORT OF SECTION 5 OF SENATE BILL 321. SECTION 5 WAS ADDED BY THE SENATE TRANSPORTATION AND UTILITIES COMMITTEE TO CLARIFY THE INTENT OF SENATE BILL 591 WHICH WAS ENACTED DURING THE 1984 LEGISLATIVE SESSION.

SENATE BILL 591 WAS ENACTED IN 1984 AND IT REQUIRES THE COMMISSION TO REGULATE LOCAL WRECKERS. AS A RESULT OF THAT BILL, USED VEHICLE DEALERS, USED MOBILE HOMES DEALERS, MANUFACTURERS OF MOTOR VEHICLES, TRAILERS, OR SEMI-TRAILERS, MOBILE HOME MANUFACTURERS, FIRST AND SECOND STAGE MANUFACTURERS, FIRST AND SECOND STAGE CONVERTERS, DISTRIBUTORS, AND WHOLESALERS ARE NO LONGER EXEMPT FROM K.C.C. REGULATIONS WHEN OPERATING WITH A DEALERS TAG. THE COMMISSION, THE COMMISSION'S STAFF AND SEVERAL OTHER AGENCIES INVOLVED IN THE ENFORCEMENT OF OUR STATUTES AND REGULATIONS DO NOT BELIEVE THAT THE LEGISLATURE INTENDED TO EXPAND THE COMMISSION'S JURISDICTION TO THE ABOVE FIRMS AND INDIVIDUALS WHEN OPERATING WITH A DEALER TAG. SECTION 5 CLARIFIES THE RELATIONSHIP

*Attach. 3  
3/20/85*



OF THE PREVIOUSLY MENTIONED VEHICLE DEALERS WHO PRIOR TO SENATE BILL  
591 (1984 SESSION) WERE EXEMPT FROM THE COMMISSION'S JURISDICTION.

(SEE LINES 0622 - 0626 ON PAGE 17)

AT THIS TIME, SHOULD YOU HAVE ANY QUESTIONS I WILL ATTEMPT TO ANSWER THEM.

3/18/85

Statement before the  
HOUSE COMMITTEE ON TRANSPORTATION  
by the  
KANSAS MOTOR CAR DEALERS ASSOCIATION  
on  
Senate Bill 321  
Wednesday, March 20, 1985

Mr. Chairman and Members of the Committee, I am Jim Sullins, Executive Vice President of Kansas Motor Car Dealers Association, the state trade association representing 385 franchised new car and truck dealers in Kansas. We would first like to thank Secretary of Revenue Harley Duncan and his staff for their cooperation and assistance during the summer months in working with the ad hoc committee, which was appointed to study the use of dealer tags, the problems surrounding dealer tags, and the dealer licensing law. Secretary Duncan and his staff have worked together with KMCDCA since the final report of the ad hoc committee, and we are in agreement that SB 321 is necessary legislation and a good first step toward curbing the abuse of dealer tags.

To give you a brief history of the bill, some of you will remember that the Senate committee discussed SB 600 of the 1984 session. That bill would have repealed all use of dealer tags, except for use dealing with the actual demonstration or exhibition of vehicles by vehicle dealers. The committee took no action on SB 600 last year, and in conjunction with a report made by the House Ways and Means Subcommittee on the Department of Revenue budget, an ad hoc committee was appointed to study the use of dealer tags. That ad hoc committee, appointed by the Secretary of Revenue, was the Dealer Review Board. It was felt that the Dealer Review Board would be the appropriate committee, rather than appointing a group of individuals who were removed from the industry. KMCDCA worked very closely with the Secretary and the Dealer Review Board and formulated proposals that were presented to the Dealer Review Board for their consideration.

We recognize SB 321 is not a cure-all. Abuses exist, and will continue to exist, even with the passage of SB 321. As with any law, someone is always going to try to take advantage of it, but we feel that it will be must more difficult to circumvent the law and the provisions of SB 321 if SB 321 is enacted. It will strengthen, tremendously, the requirements to receive a dealer license and requirements to maintain a dealer license.

3/20/85  
Attach. 4

Senate Bill 321 addresses several areas in the dealer-manufacturer-salesman licensing act (KSA 8-2401 et seq.). It is necessary to direct your attention to several different sections because there is not one clear-cut, easy solution to this problem. In fact, there are several factors entering the overall problem which SB 321 attempts to address.

KMCDA sees one of the problems and factors as being the ease with which one may receive a dealer license. It is quite simple for someone to become licensed as a motor vehicle dealer in the state of Kansas. I would like to point out that during the testimony, we will use two different terms which are easily confused. The dealer license is the physical piece of paper displayed in the dealership which permits the operation as a motor vehicle dealership. The dealer tag is the license plate affixed to a vehicle (just like your regular street tag on the back of your car). These are the two different terms: the license, which is the authority, and the tag, the means to demonstrate or drive a vehicle on the street. By meeting a few simple requirements, one can qualify for a dealer's license. Those requirements may be found in the statutes (KSA 8-2401) as well as portions of this bill.

One of the requirements is to have an established place of business. You will find a definition of this on page 6, line 204, subparagraph (ii). The established place of business has to be owned either in fee or lease and has to be a place to keep records and receive mail. On Page 11, line 381, another requirement of the established place of business is to have sufficient lot space to display vehicles equal to the number of dealer tags issued to the dealership by the Dealer Licensing Bureau. Therefore, if you have 10 dealer tags, you should have lot space available to display 10 vehicles. Additional requirements to receive a dealer license can be found on lines 386 and 389; 386 being that there must be a sign easily visible from the street and line 389 being that the established place of business must be properly zoned if such zoning requirements exist. I think you would agree with me that these are fairly simple requirements to meet, and personally, I could probably obtain a license tomorrow if I so desired. With simple requirements, it makes it very inviting to use a dealer license as a means of getting around titling and registration of personally owned vehicles. We feel this is one of the problems, whereby an individual, for \$50 for the dealer license and \$10.50 for the first dealer tag, would spend \$60.50 to become a dealer--meeting the very minor requirements. Then he could purchase several dealer tags to put his family, kids, etc., on and avoid a tremendous amount of personal property tax and sales tax on those individually held vehicles.

In an effort to strengthen the requirements to obtain a license, new language has been added in SB 321 to the previously mentioned requirements. In line 204 under "Established place of business", you will find that it also now requires that there be an operable telephone which is listed in the directory and connected to the local exchange. This is felt to be necessary as any legitimate business would want to have their phone listed in the telephone book and want to be reached, and it should simply be one of the licensing requirements. Additionally, in that same subsection, it has been added that the established place of business have posted hours of business where the public can find out when the business is open. In many cases, it is difficult to find a small, used car operation open. People will go and it will simply have a wood sign hung over the door and no one is ever there. These are the "fly-by-night" operations which we feel are probably not really in the vehicle business and are abusers of dealer tags; but not necessarily the sole abusers. Also, with the sign provision (which is required to be easily visible from the street), we think there should be a stipulation where there would be at least six-inch lettering on the sign. Again, just one more thing someone has to go through to get the initial dealer license.

Another step in the bill which would strengthen the initial license requirement can be found in lines 354 through 370. This would require that a \$20,000 surety bond be posted by the applicant or licensee with the Division of Vehicles. The bond would have to be posted and maintained before an initial license could be issued or before a renewal application could be processed and maintained in force during the period that the license is held. Dropping of the bond itself would constitute forfeiture of license and the Division of Vehicles would be able to recall the dealer license as well as the dealer tags. We feel this is a necessary provision to assist in preventing the "fly-by-night" operators from being licensed.

An insurance company, we feel, would be very careful in screening an applicant for a \$20,000 bond, and this would simply be another safeguard which would help assure that the applicant or an existing dealer were legitimately in the vehicle business.

Turning now to the use of dealer tags specifically and in general, in an attempt to deter someone from getting a license solely for the purpose of avoiding personal property and taxes taxes as we previously mentioned, on lines 413 and 414 you will see that the fee for the initial dealer tag has been changed from \$10.50 to \$250. This is after the \$50 dealer license has been paid. From that point on, each additional tag would remain \$10.50 which is current law. This would substantially increase the initial cost of becoming a dealer to a total of \$300 for the license and initial tag, plus the cost of the bond, estimated at approximately \$100 - \$125. We are now talking in the neighborhood of \$425 in an initial investment and annual reinvestment to be a vehicle dealer. This gets up to be on par with possible property taxes, depending upon the individual's location, and would, we feel, be a deterrent to someone simply applying for a license for the purpose of getting dealer tags.

KMCDA wholeheartedly supports the increase in the first dealer tag, even though some of our dealers who have been in business for many, many years will have a substantial increase in cost. We feel that for the good of the vehicle industry statewide, this is a very important portion of the bill.

The final section of SB 321 provides for a new type of tag for vehicle dealers. Currently under existing statutes, a regular dealer tag or D-tag, can be used by the dealer and his spouse; by fulltime, corporate officers of the dealership; and by the sales manager and fulltime salespeople of the dealership. These are the only individuals who are allowed personal use of dealer tags. In Section 4 of the bill, you will find the provisions for what is called a "full privilege" tag. This is something KMCDA has been toying with for several years. It would allow dealers to purchase, for a premium price, a regular tag such as you have on your personal car, and would allow the dealer to distribute those tags to any employee of the dealership or person, such as a child, at the discretion of the dealer.

As previously stated, use of the dealer tag is restricted to certain individuals, and this would allow dealers to also provide demonstrators to service managers, parts managers, office managers and other key dealership personnel, as well as children who are living at home or away at school. With implementation of the full privilege tag, dealers would be allowed a way to get away from violating the dealer tag law by putting the previously mentioned individuals on a full privilege tag, rather than taking a chance of putting them on a regular dealer tag.

KMCDA feels that this is a very necessary provision in the bill as dealers want to be able to provide their managers with vehicles. This is seen, at least in some degree, as being a fringe benefit of the job, and managers expect to have a company car provided. It becomes a bargaining tool in negotiating with an individual concerning employment and continued employment. Under the current D-tag laws, these managers are not eligible, so dealers end up using dealer tags illegally to provide these key employees with vehicles. The same goes with the children of the dealers. Dealers feel like they should be able to provide a car to a child who, for example, is in school at one of the universities or colleges in Kansas. By providing a full privilege tag, dealers would be able to legally put that tag on one of their inventory vehicles and allow that child to use it and to get away from the dealer tag provision and problems which arise with the abuse of dealer tags.

You will note in Subsection B of new Section 4 that the annual fee proposed is \$350. The Dealer Review Board, in their study of this issue, felt that \$200 would be a fair price for a dealer to pay for one of these tags. Secretary of Revenue Duncan, in his report to you, stated that it is his feeling that \$500 was the price that should be set. When I went before the Senate Committee to ask for introduction of SB 321, it was decided as a compromise at that time that the bill would be introduced at the \$350 level, being halfway between the Dealer Review Board's proposed \$200 and the Secretary of Revenue's \$500.

KMCDA feels that the \$350 price may be a little high, and we would propose that line 475 of the bill be amended to read \$250 instead of \$350.

While it is hard, not only for us, but for the Secretary of Revenue's office, to arrive at a fair and equitable, statewide fee, we feel that the \$350 would be a little high. Where the larger counties have higher mill rates, \$350 may be more in line with the cost there; but when you go into Western Kansas where the mill levy is traditionally much lower, \$350 would be way out of proportion for dealers in that area. We feel \$250 would be a good middle ground to seek in this particular area.

Section 4 goes on to say that the full privilege tag may be transferred by the dealer to any vehicle in inventory. This is the same way current D-tags are being transferred. Full privilege tags would not be able to be used on leased or rental vehicles; used to haul commodities in excess of 2 tons; nor could they be used on what's commonly known as a wrecker or tow truck when providing wrecker or towing services. This echoes KSA 8-136 which defines the legal use of a dealer tag. Full privilege tags would be used in basically the same manner as a regular dealer tag, and the prohibitions that apply to the dealer tag would also apply to the full privilege tag.

Subsection F allows for the allotment of the fees received from the sale of the full privilege tag. Half of the fees received would go to the county treasurer's office in the county which the dealer has his established place of business. The other 50% of the fees would go to the Secretary of Revenue's office. It would be credited to the vehicle dealers and manufacturers fee fund which is being created by the bill.

It was the feeling of the Dealer Review Board when they studied this that fees generated by the full privilege tag should, in turn, be used by the Dealer Licensing Bureau to step up enforcement of the dealer licensing law. That is the reason that we are asking that half of the fee be directed back to the Secretary of Revenue and the Dealer Licensing Bureau. We feel this is very important and is one of the reasons that we are so supportive of the bill.

Obviously, there is quite a bit of an increase in cost to the franchised dealer, as well as the other dealers, but we recognize that one of the biggest problems is with the actual enforcement of the current statutes of the dealer licensing law and the use of dealer tag. The fact is that the Department of Revenue does not have an adequate staff to properly enforce the law. It is quite impossible for the department, with two fulltime field men and four part-time field men to go out and adequately police the use of dealer tags in the State. With so few people enforcing, it makes it very inviting to dealers to attempt to violate the D-tag law because there is a small chance of being caught. We think this money should be channelled back directly to the Department of Revenue to be used at the Secretary's discretion to step up the enforcement of the law and to obtain additional field personnel, as necessary, to go out and check the dealers and go through the dealerships to make sure dealer tags are being properly used.

You may wonder why the dealers would want to pay for this type of tag rather than to title and register a vehicle. There are several reasons. The most important, as far as our dealers are concerned, is the depreciation factor incurred when a new vehicle is titled and registered. Under Kansas law, a vehicle is considered new until such time as the Manufacturer's Statement of Origin is transferred to a consumer and a regular certificate of title is issued. At that point, the vehicle becomes used. There is no mileage factor or any other provision to denote the difference between a new and a used vehicle. For example, a dealer could title a vehicle that only had ten miles on the odometer, and that vehicle would then have to be sold as a used vehicle and could not be represented as a new vehicle. When the dealer titles and registers a vehicle, he incurs property tax as does the individual, as well as sales tax based on the cost of the vehicle to the dealer from the manufacturer. As you all know, when a vehicle is titled and becomes used, there is substantial, initial decrease in the value of that vehicle. That is the depreciation factor. The cost in total to the dealer, by titling and registering the vehicle and making that new vehicle a used vehicle, is quite high. The dealers don't want to knock down the price of the vehicle that much.

Additionally, when a vehicle is titled, the warranty begins running and there is no way to regenerate the warranty on that vehicle. It is only good for the 12 months or 12,000 miles, or whatever the manufacturer's warranty is, from the date of title. On a demonstrator vehicle, for example, the warranty begins to run when the vehicle is put into demonstrator service and reported by the dealer to the manufacturer. However, at the time of sale to the ultimate consumer, the warranty, for a minor fee, generally in the neighborhood of \$50, can be regenerated to the consumer's benefit.

These are two of the reasons we see that this full privilege tag is necessary. Without it, the possibility exists for the dealers to continue to violate the dealer tag law by putting vehicles into demonstrator service and permitting unauthorized persons (such as service managers, etc.) to drive those vehicles on D-tags.

Subsection C states that the license plate would have an expiration date of January 31. The reason for this is because all dealer tags expire on Dec. 31 technically, but there is an extension of 45 days granted to Feb. 15, so the Dealer Licensing Bureau has time to receive applications and to have dealer license tags made. In order to allow the Department ample time to issue full privilege tags in the same manner, January 31 was chosen to approximate the expiration date of February 15 (including the extension).



Section G on line 513 is a simple statement that the provisions of KSA 8-136 and 8-2406 shall not apply to the full privilege tags. This is included because those two specific statutes address the proper use of the D-tag, and those provisions should not be construed to apply to the full privilege tag.

Mr. Chairman and members of the committee, the Senate made two amendments to the bill which are found on lines 419 and 440.

On lines 419-422, a stipulation was added so that after the first year of license, a dealer who did not sell at least five vehicles during the previous year would not receive d-tags for the new year. He would still be able to acquire a dealer license which would allow him to assign titles, etc., but would not have dealer tags. This is aimed at getting those 800+ dealers who sold 0-5 vehicles last year off dealer tags. Those 800+ dealers are the ones whom we question as to really being in the vehicle business.

As an option to the Senate amendment, we would like to offer an amendment which we think will accomplish basically the same thing, but will still allow a dealer to have one D-tag. We would ask that the bill be amended to read:

"After the end of the first year of licensure as a dealer, any dealer who has not reported to the division the sales of at least twelve motor vehicles in the preceding year may purchase only one dealer license plate until such time that the reported sales exceed twelve during the calendar year."

The purpose of this amendment is to make sure that even the smallest of operations has at least one tag on which they can demonstrate vehicles. Under the Senate amendment, a licensee would not be able to demonstrate any vehicle offered for sale as the licensee would not have any dealer tags. With our proposed amendment, we reach a little larger segment of the dealer population, but in turn, allow the dealer to purchase the first dealer license plate at a cost of \$250. We feel that the required sale of 12 vehicles is proper as that is only one vehicle per month, and anyone who is in the business of selling vehicles has to sell at least one per month to be able to make a living.

Should you decide not to amend the bill as we have requested, we hope that you will retain the Senate amendment. We support the Senate amendment and only offer this as an alternative.

The second Senate amendment in lines 440-443 makes it clear that for a sales person to be eligible for use of D-tag, they must work in the dealership at least 20 hours per week. This provision was added to give the Division better direction as to who is a "full-time" salesperson. KMCDCA supports the Senate amendment.

Mr. Chairman and Members of the Committee, we think SB 321 is good and effective legislation. As we stated at the outset, while it may not be the cure-all for abuses, it is certainly a very good first step.

We urge your favorable consideration to our proposed amendments, as well as a favorable report on SB 321 to the full House.

Thank you for your time, and I would be happy to answer any questions you may have.

INSURANCE DEPARTMENT  
Topeka

M E M O R A N D U M

TO: Mr. Rex Crowell  
Representative, 76th District  
Chairman, House Transportation Committee

FROM: Kansas Insurance Department

SUBJECT: Senate Bill No. 321

DATE: March 21, 1985

The following comments summarize remarks presented by Raymond E. Rathert at the meeting of the House Transportation Committee on March 20, 1985.

The cost of the bond referred to in Senate Bill No. 321 is estimated to be \$10 per thousand of the penal amount. The cost of a \$20,000 bond would be \$200.

In conferring with bonding companies that would offer this kind of bond in Kansas, we were advised that the bonding company likes to see a working capital of two to three times the penal amount of the bond. In other words, if the bond is written for \$20,000, the bonding company will hope to find working capital of \$40,000 to \$60,000. In addition, the bonding company will also examine the net worth of the applicant. The general standard is to find net worth amounting to three to five times the penal amount of the bond. In the event of a \$20,000 bond, the bonding company will hope to see a net worth of the principal in the amount of \$60,000 to \$100,000.

A comment was also provided in regard to Section 2, subsection (i)(A) found on page 9 of Senate Bill No. 321. This particular section provides in part that "if the director has a reasonable cause to doubt the financial responsibility or the compliance by the applicant or licensee..., the director may require the applicant or licensee to furnish and maintain a bond in such form, amount and with such sureties as the director approves, but such amount shall not be less than \$5,000 nor more than \$15,000...". The comment was made to the effect that this proviso would leave a bonding company suspect of the client because of the possibility of adverse selection. If the director has reasonable cause to doubt the financial responsibility of the applicant, certainly a bonding company will also have the same suspicions and more than likely would not want to voluntarily provide the bond. The negative connotation of this provision will automatically eliminate numerous carriers from consideration of the bond.

Attach. 5  
3/20/85

Memorandum  
Page 2  
March 21, 1985

We are hopeful that the above comments will be satisfactory to the needs of the committee; however, should you have any additional questions, please do not hesitate to contact the Kansas Insurance Department.

RER:jlf  
2551



# KADRA



KANSAS AUTOMOTIVE DISMANTLERS AND RECYCLERS ASSOCIATION

HOUSE TRANSPORTATION COMMITTEE  
MARCH 20, 1985

SENATE BILL NO. 321

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

I AM STEVEN R. WIECHMAN, ATTORNEY FOR THE KANSAS AUTOMOTIVE DISMANTLERS AND RECYCLERS ASSOCIATION. WITH ME IS PATRICIA WIECHMAN, ON BEHALF OF THE ASSOCIATION. WE APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOU REGARDING SENATE BILL NO. 321 WHICH IS THE RESULT OF THE JOINT EFFORTS OF THE DEALER REVIEW BOARD, THE KANSAS MOTOR CAR DEALERS ASSOCIATION, THE DIVISION OF VEHICLES AND OUR ASSOCIATION.

DURING THE SUMMER, K.A.D.R.A. HAD THE PRIVILEGE OF WORKING TO REACH A SOLUTION TO SOME OF THE PROBLEMS EXISTING WITHIN THE AREA OF DEALER LICENSING. THOSE PROBLEMS INCLUDED THE REQUIREMENTS TO BECOME A DEALER, THE IMAGE DEALERS PORTRAY AND THE EASE WITH WHICH A PERSON CAN RECEIVE A DEALERS LICENSE. THE USE OF DEALER LICENSE PLATES AND THEIR NEED AS A TOOL IN VEHICLE SALES WAS ALSO DISCUSSED.

K.A.D.R.A. SUPPORTS SENATE BILL 321, BELIEVING THAT IT WILL ADDRESS AND SOLVE MANY OF THE CONCERNS THAT EXIST. HOWEVER, THE SENATE TRANSPORTATION AND UTILITIES COMMITTEE ADDED LANGUAGE AT LINE 419 THROUGH LINE 422 WHICH REQUIRES THAT ". . . NO DEALER LICENSE PLATE SHALL BE ISSUED TO ANY DEALER WHO HAS NOT REPORTED TO THE DIVISION THE SALE OF AT LEAST FIVE MOTOR VEHICLES IN THE PRECEDING YEAR."

PRESIDENT  
Wayne Castle  
Foreign Cars Unltd  
Wichita, KS.

VICE PRESIDENT  
Mark Warrell  
A-OK Auto Salvage  
Kansas City, KS.

SECRETARY/TREASURER  
Evelyn Fateley  
Hillside Auto Parts  
Chanute, KS.

LEGAL COUNSEL  
Steven R. Wiechman  
Topeka, KS.

DIRECTORS

Don Ely  
Kingman Salvage

Jerry Inman  
Hays Auto Parts

Dale Lehning  
A-One Salvage, Inc.

John Lewis  
Lewis Auto Salvage

Gary Roth  
Dodge City Salv, Inc.

Shirley Sawyer  
Sawyer Auto Salvage

Floyd Seidl  
Don Schmidt Mtr, Inc.

Chuck Waggoner  
Colby Wrecking Yard



3/20/85  
Attach. 6

AS THE NAME OF OUR ASSOCIATION INDICATES, WE ARE AUTOMOTIVE DISMANTLERS AND RECYCLERS. WHILE SALVAGE VEHICLE DEALERS MAY PURCHASE COMPLETE VEHICLES DURING THE COURSE OF A YEAR, THE SAME DEALER MAY NEVER SELL ONE WHOLE OR COMPLETE VEHICLE. THE VEHICLES THAT THE SALVAGE VEHICLE DEALERS HANDLE, AFTER DISMANTLING, ARE MANY TIMES SOLD EITHER AS PARTS OR ARE CRUSHED.

SALVAGE VEHICLE DEALERS AND USED/SALVAGE VEHICLE DEALERS ARE REQUIRED TO FILE QUARTERLY REPORTS WITH THE DIVISION OF VEHICLES. ACCORDING TO DIVISION RECORDS, IN 1984, THERE WERE 455 DEALERS LICENSED AS SALVAGE DEALERS. THE DEALER QUARTERLY REPORTS SHOW THAT 183 OF THOSE DEALERS DID NOT REPORT ANY PURCHASES FOR SALVAGE OR SURRENDER ANY TITLES. FIFTY FOUR (54) SALVAGE DEALERS REPORTED 1 TO 5 PURCHASES FOR DISMANTLING OR SURRENDERED TITLES. THEREFORE, 237 OR 52% OF THE SALVAGE LICENSE HOLDERS PURCHASED 0 TO 5 VEHICLES IN 1984, OR SURRENDERED 5 OR FEWER TITLES. WE BELIEVE THAT THE SAME STANDARD OF A MINIMUM OF FIVE (5) PURCHASES FOR SALVAGE OR TITLES SURRENDERED SHOULD BE REQUIRED TO GET A SALVAGE VEHICLE DEALER LICENSE.

ABSENT THIS REQUIREMENT, I BELIEVE THAT THERE IS A VOID OR "LOOPHOLE" IN THE LAW. A DOUBLE STANDARD EXISTS. ONE THAT WITH WHICH SALVAGE VEHICLE DEALERS CANNOT COMPLY IN MAKING VEHICLE SALES.

IN ORDER TO MAKE THIS LEGISLATION WORKABLE, WE PROPOSE TO ADD THE FOLLOWING LANGUAGE AT LINE 422 AFTER THE SENATE'S LANGUAGE:

". . . OR TO ANY SALVAGE VEHICLE DEALER WHO HAS NOT REPORTED TO THE DIVISION THE PURCHASE OF AT LEAST FIVE MOTOR VEHICLES FOR DISMANTLING, DISASSEMBLING OR RECYCLING OR THE SURRENDER OF AT LEAST FIVE VEHICLE TITLES TO THE DIVISION."

WE BELIEVE THAT THIS WILL PROVIDE A STANDARD FOR SALVAGE VEHICLE DEALERS AND ALLOW THE SALVAGE VEHICLE DEALER WHO DISMANTLES AND MAY NOT EVER SELL A FULLY ASSEMBLED VEHICLE TO REMAIN IN BUSINESS AND RECEIVE DEALER LICENSE PLATES. WITHOUT THIS, OR A SIMILAR PROVISION, THE LANGUAGE AT LINE 419 THROUGH LINE 422 WILL CERTAINLY CAUSE THE SALVAGE VEHICLE DEALERS WHO DISMANTLE AND RECYCLE BUT WHO DO NOT REBUILD OR RUN A USED CAR BUSINESS TO GO OUT OF BUSINESS OR THROUGH LEGAL MEANS, TO CHALLENGE THE LAW.

FOR YOUR CONVENIENCE, A BILL BALLOON, AS TO OUR RECOMMENDED CHANGES, IS ATTACHED.

THE MEMBERS OF THE KANSAS AUTOMOTIVE DISMANTLERS & RECYCLERS ASSOCIATION, THANK YOU FOR YOUR CONSIDERATION. IF YOU HAVE QUESTIONS, I WILL BE HAPPY TO TRY TO GIVE YOU ANSWERS. THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE YOU.

RESPECTFULLY SUBMITTED,

STEVEN R. WIECHMAN  
KANSAS AUTOMOTIVE DISMANTLERS &  
RECYCLERS ASSOCIATION  
1101 WEST 10TH  
TOPEKA, KS. 66604  
(913) 233-8862

0416 mine the number of dealer *license* plates the dealer needs, the  
 0417 director may base the decision on the dealer's past sales, inven-  
 0418 tory and any other pertinent factors as the director may deter-  
 0419 mine. *After the end of the first year of licensure as a dealer, no*  
 0420 *dealer license plate shall be issued to any dealer who has not*  
 0421 *reported to the division the sale of at least five motor vehicles in*  
 0422 *the preceding year*

" . . . OR TO ANY SALVAGE VEHICLE DEALER WHO HAS  
 NOT REPORTED TO THE DIVISION THE PURCHASE OF AT  
 LEAST FIVE MOTOR VEHICLES FOR DISMANTLING,  
 DISASSEMBLING OR RECYCLING OR THE SURRENDER OF AT  
 LEAST FIVE VEHICLE TITLES TO THE DIVISION."

There shall be no refund of fees for dealer  
 0423 *license* plates in the event of suspension, revocation or voluntary  
 0424 cancellation of a license. The director is hereby authorized to  
 0425 designate by identifying symbols on a dealer's *license* plate the  
 0426 type of dealer's license that the person has been issued. If a  
 0427 dealer has an established place of business in more than one  
 0428 county, such dealer shall secure a separate and distinct dealer's  
 0429 license and dealer *license* plates for each established place of  
 0430 business.

0431 (b) New motor vehicle dealers and used motor vehicle  
 0432 dealers may authorize use of dealer *license* plates assigned to  
 0433 such motor vehicle dealers as follows:

- 0434 (1) The licensed motor vehicle dealer and such dealer's  
 0435 spouse;
- 0436 (2) the corporate officers of the licensed motor vehicle dealer  
 0437 when such corporate officers are full-time employees thereof;
- 0438 (3) the sales manager and all other sales personnel when  
 0439 such manager and sales personnel are full-time employees  
 0440 thereof and are properly licensed in Kansas, *except that no*  
 0441 *dealer license plate shall be assigned to sales personnel who are*  
 0442 *working at the established place of business of the dealer less*  
 0443 *than 20 hours per week;*

0444 (4) any employee of such motor vehicle dealer when the use  
 0445 thereof is directly connected to a particular business transaction  
 0446 of such motor vehicle dealer;

0447 (5) the customer when operating a motor vehicle in connec-  
 0448 tion with negotiations to purchase such motor vehicle or during a  
 0449 demonstration of such motor vehicle.

0450 (c) A wholesaler dealer may authorize the use of dealer  
 0451 *license* plates on vehicles purchased by the wholesaler for resale  
 0452 to a retail vehicle dealer as follows: