Approved 3-18-85
Date

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES.

The meeting was called to order by Sen. Bill Morris at
Chairperson

9:00 a.m./p.m. on March 6, 1985 in room 254-E of the Capitol.

All members were present except:
Sen. Doyen was excused.

Committee staff present:

Hank Avila, Research Department
Fred Carman, Revisor
Louise Cunningham, Secretary

Conferees appearing before the committee:

Ann Mattheis, Washington, D.C., National Solid Wastes Management Association
Ralph Hunt, Wichita
J. Bond, Wichita
Frank Oser, Wichita
Ed DeSoignie, Department of Transportation
Harley Duncan, Secretary, Department of Revenue
Jim Sullins, Kansas Motor Car Dealers Association
Bill Green, Kansas Corporation Commission
Steve Wiechman, Automotive Dismantlers and Recyclers Association

On a motion from Sen. Hayden and a second from Sen. Walker the Minutes of March 1, 1985 were approved. Motion carried.

HEARING ON S.B. 276 - Refuse trucks gross weight limitations, exemptions.

PROPONENTS:

Ann Mattheis, Washington, D.C., explained the problem. The waste haulers were requesting their vehicles be exempt from state axle weight limits. The problem arises because most of these vehicles are equipped with a compactor and so most of the weight rests on the rear axle. Also, the trash is loaded on the rear end and they cannot tell what trash weighs because on some days it may be wet trash. A copy of her statement is attached. (Attachment 1).

Ralph Hunt, Wichita, said the problem is not the gross weight but the weight on the rear axle that is the problem. They would prefer to go by gross weight of the trucks. Any kind of relief would be helpful in their situation. He said right now if they are caught they simply pay the fine. They try to avoid the scales.

Frank Oser said he was a trash hauler. People need their trash hauled away and the haulers need a break in this situation.

Mr. J. Bond, Wichita, said they are not asking for gross weight exemption but axle distribution. He said they know they are not operating under the law and would like to operate legally.

One of the senators wanted the bill to specifically exclude feed lot waste haulers and manure hauling trucks.

Ed DeSoignie said the Transportation Department was opposed to this bill It would take authority away from the local entities. A copy of his statement is attached. (Attachment 2).

HEARING ON S.B. 321 - Dealer License Plates

The Chairman said that the Transportation Committee had a bill last year and that many abuses were noted on dealer license plates. The Dealer Review Board and Post Audit worked on this last year. This bill is the recommendation between the Review Board and the Department of Revenue.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,

room 254-E, Statehouse, at 9:00 a.m./~~p.m.~~ on March 6, 1985

PROPONENTS:

Secretary Duncan reviewed the bill for the committee. He said the bill attempts to reduce potential misuse of dealer tags from several perspectives. Mr. Duncan said people with no authority to have dealers plates, such as sons, daughters, family members or others in the community are using them. 600 dealers out of 3500 had sold 10 cars or fewer in a year. 100 had sold no cars at all. This is clearly not their sole means of support. A copy of his statement is attached. (Attachment 3).

Jim Sullins, Kansas Motor Car Dealers Association, said this bill was not a cure-all. He said this bill would increase the initial investment to $425 instead of the $60.50 it now takes. People are saving money by not paying property taxes and sales taxes. With the increase in licensing it should help stop the abuse. A copy of his statement is attached. (Attachment 4).

Bill Green, KCC, had an amendment to S.B. 321 which would clarify the legislative intent of local wrecker statute. A copy of this amendment and Mr. Green's statement is attached. (Attachment 5).

Steven R. Wiechman, said they were in support of S.B. 321. He had a possible amendment which would pertain to licensed salvage vehicle dealers. He did not, however, want this amendment to jeopardize passage of S.B. 321. A copy of his statement and proposed amendment is attached. (Attachment 6).

Meeting was adjourned at 10:05 a.m.

SENATE LABOR, INDUSTRY & TOURISM COMMITTEE

Date 3-6-85 Place 254-E Time 9:00

GUEST LIST

NAME	ADDRESS	ORGANIZATION
Ann Mattheis	1730 Rhode Island Ave. Washington, D.C.	National Solid Wastes Management Assn
Ralph Hunt Jr.	1961 [illegible], Wichita	NSWMA
Jerry Cochey	320 Cochey, Maize	NSWMA
[illegible] Bond	1337 Arrowhead Drive Wichita, Kansas	NSWMA
George [illegible]	Box 19047 Topeka, KS 66619	NSWMA
Pat Barnes	Topeka	Ks. Motor Car Dealers Assn.
Mary E. Turkington	Topeka	Kansas Motor Carriers Assn
Tom Whitaker	Topeka	Ks Motor Carriers Assn.
Sgt. Bill Jacobs	Topeka	Kansas Highway Patrol
Rosemary O'Neil	Topeka	NEKHIA
Jim Sullins	Topeka	Ks Motor Car Dealers Assn
[illegible]	Topeka	Dept. of Revenue
Harold B. [illegible]	"	" " "
H [illegible]	Topeka	Dept of Rev
Marion [illegible]	Marion High KS.	Student
Leslie [illegible]	Marion	Student
[illegible]	Marion	Student
Russ Vanyo[illegible]	Marion	Student
John Martin[illegible]	Marion	Student
Wes Riggs	Marion	Student
Joe Fitzpatrick	Marion	Student
Brian Green	Topeka	KCC

SENATE LABOR, INDUSTRY & TOURISM COMMITTEE

Date 3-6-85 Place Time

GUEST LIST

NAME	ADDRESS	ORGANIZATION
Wayne Castle	2829 N Broadway	Ks Auto Dismantler + Recycler
Pat Wiechman	Topeka, Ks.	Kansas Automotive Dismantlers & Recyclers Assn.
Steven R. Wiechman	" "	" "

National Solid Wastes Management Association

1730 RHODE ISLAND AVENUE, N.W. • TENTH FLOOR • WASHINGTON, D.C. 20036
TELEPHONE (202) 659-4613

EUGENE J. WINGERTER
EXECUTIVE DIRECTOR

TESTIMONY OF

ANN H. MATTHEIS

REPRESENTING

KANSAS CHAPTER
NATIONAL SOLID WASTES MANAGEMENT ASSOCIATION

SENATE BILL 276

SENATE TRANSPORTATION AND UTILITIES COMMITTEE

MARCH 6, 1985

ATT. (1)
3/6/85

Mr. Chairman, members of the Committee, good morning. My name is Ann Mattheis and I am a Legislative Representative with the National Solid Wastes Management Association (NSWMA). The NSWMA is a trade association which represents over 2,500 privately owned firms engaged in all facets of waste service management. More than 30 of those companies are licensed and operating in Kansas and comprise the NSWMA's Kansas Chapter, one of our newest State organizations. I would also like to introduce Ralph Hunt, of Select Service Trash in Wichita, Chairman of our Kansas Chapter.

We are here today on behalf of NSWMA's Kansas members to urge your support for SB 276 which would exempt refuse collection vehicles from state axle weight limits. The problem addressed by SB 276 is one that has continued to plague refuse haulers in Kansas and in all other 49 states -- the uneven distribution of weight carried by these vehicles, loaded and unloaded.

The problem arises from the unique design of these trucks and the varying weight of the material they carry. Most refuse vehicles are equipped with a compactor which reduces the bulk of the trash loaded into the truck, thereby maximizing vehicle capacity under existing law. The compactor is considered essential to the safe and efficient operation of a trash collection vehicle. Without this equipment, the increased bulk of the trash would force the truck to make excessive numbers of trips to the disposal site at greater cost to the consumer

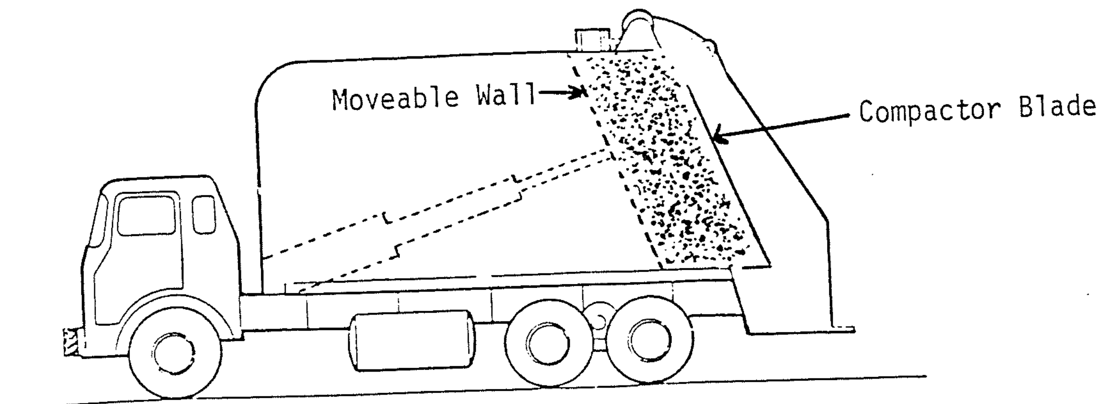
and with unnecessary consumption of fuel. The compactor, however, is also very heavy. When its weight is added to that of the loading mechanism, the vehicle's weight can increase as much as 7,000 pounds. For rear-loading refuse trucks, all of this additional weight will rest on the rear axle.

To compound the weight distribution problem for a rear-end loader, trash is loaded from the rear of the truck which greatly increases the amount of weight carried on the rear tandem axle. (See illustration.) The front axle carries less than 50 percent of the allowable weight, even when the truck is fully loaded. Today, a typical rear-end loader may reach the maximum weight limit on its rear axles when it is from 1/3 to 1/2 full. A front-end loading vehicle experiences this same weight distribution problem with some variation due to the forward location of its cab, engine, loading arms, and compacting equipment.

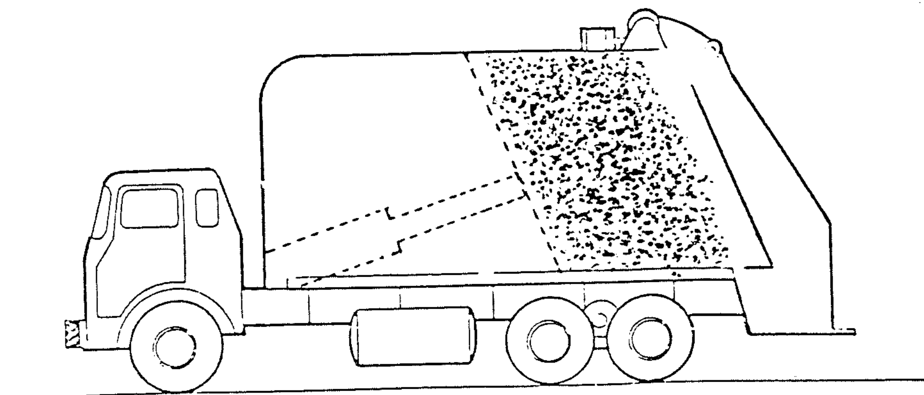
The other factor affecting the weight of these vehicles arises because there is no practical means of determining when a refuse truck on its route has reached its allowable axle weight, since the nature of the refuse and its weight-to-volume ratio is not consistent from day to day, or even from stop to stop. Even the weather can affect the weight of refuse. In wet weather, the moisture content of refuse left on a curbside can increase its weight as much as 40 percent.

It simply makes good sense to recognize the practical considerations inherent in the design and use of refuse vehicles in light of the important public service they perform and the impracticality of

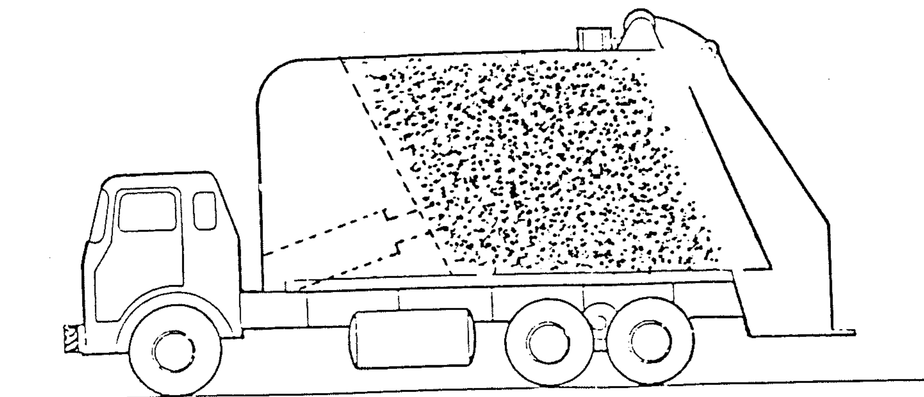
LOAD DISTRIBUTION FOR A REAR END LOADER
(Loads from rear and compacts against a moveable wall)



EARLY LOADS



LATER LOADS



STILL LATER LOADS

pre-weighing and then distributing their loads to comply with axle weight restrictions. Fifteen states have acknowledged the problems faced by refuse vehicles as evidenced by the axle weight limit exemptions that they have granted to these trucks.

I would like to add that these states have approved axle eight relief for refuse vehicles despite the claims of state transportation officials that the benefit will threaten the states' Federal highway funds.

I should emphasize that SB 276 specifically states that the exemption will not apply to Federal highways, only to refuse trucks travelling on Kansas highways and roads. I would also like to emphasize that none of the states that have granted this benefit have lost their Federal Highway funds.

Mr. Chairman and members of the Committee, we believe these facts and figures describing the dilemma facing refuse haulers in Kansas provide compelling evidence in support of special weight treatment for refuse collection vehicles. The NSWMA's Kansas Chapter members hope that you agree and will demonstrate your concern for their plight by approving SB 276 for full Senate consideration.

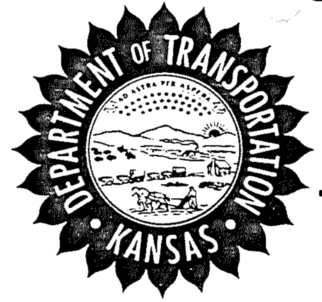
Thank you for your attention. We are ready for questions.

(2)

KANSAS DEPARTMENT OF TRANSPORTATION

STATE OFFICE BUILDING—TOPEKA, KANSAS 66612

JOHN B. KEMP, Secretary of Transportation JOHN CARLIN, Governor



MEMORANDUM TO: SENATE TRANSPORTATION AND UTILITIES COMMITTEE

FROM: EDWARD R. DESOIGNIE
POLICY COORDINATOR

REGARDING: SENATE BILL 276

DATE: MARCH 6, 1985

THE KANSAS DEPARTMENT OF TRANSPORTATION HAS, I BELIEVE, AN UNDERSTANDABLE CONCERN WITH ANY PROPOSED ACTION WHICH WOULD INCREASE THE ALLOWABLE VEHICLE WEIGHT LIMITS ON KANSAS HIGHWAYS AND BRIDGES.

OUR CONCERNS ARE BASED ON THE FACT THAT VEHICLE WEIGHTS ARE A CONTRIBUTING FACTOR TO ROADWAY STRESS. THE DESIGN OF PAVEMENT AND BRIDGES CONSIDERS THE FREQUENCY AND AMOUNT OF STRESS, THAT IS THE NUMBER OF AXLES/LOADS THAT PASS OVER A SECTION OF HIGHWAY DURING A GIVEN PERIOD OF TIME. AXLE LOADS IN PARTICULAR, ARE A MAJOR CONTRIBUTOR TO PAVEMENT STRESS. THE FREQUENCY OF STRESSES AND THE AMOUNT OF STRESS IMPACTS THE LIFE OF THE ROAD OR A BRIDGE.

K.S.A. 8-1908 ESTABLISHES THE GROSS AXLE WEIGHT LIMITS ON SINGLE AND TANDEM AXLES. THESE LEGAL LIMITS ARE THE SAME AS THE WEIGHT LIMITATIONS FOR WHICH THE HIGHWAYS AND BRIDGES ARE DESIGNED, INCLUDING BUILT-IN TOLERANCES. IT WOULD SEEM VERY REALISTIC THAT AN INCREASE IN THE ALLOWABLE WEIGHT LIMIT, ABOVE THE DESIGN LIMIT, WOULD TEND TO HASTEN THE DETERIORATION OF THE ROADWAY ITSELF. ESPECIALLY IN THIS INSTANCE OF CONTINUOUS USE.

TO PROTECT THE INTEGRITY OF OUR EXISTING HIGHWAY SYSTEM, IT IS IMPORTANT TO ALLEVIATE UNDUE STRESS WHEREVER POSSIBLE BY NOT EXCEEDING THE DESIGN LIMITS ON WEIGHT. THE LEGISLATURE RECOGNIZED THIS ISSUE BY ENACTING IN 1983, THE PRESENT BRIDGE WEIGHT TABLE IN K.S.A. 8-1909 (ATTACHMENT A).

ATT. (2)
3/6/85

IF THE LOCAL AUTHORITIES WANT TO ALLOW AN EXEMPTION SUCH AS IS ADDRESSED IN SENATE BILL 276, THEN K.S.A. 8-1911 (ATTACHMENT B) GRANTS AUTHORITY TO THEM TO TAKE SUCH ACTION. LOCAL AUTHORITIES MAY USE THEIR OWN DESCRETION IN GRANTING AUTHORIZATIONS FOR HIGHWAYS UNDER THE LOCAL JURISDICTION. LOCAL AUTHORITIES CAN LIMIT THE NUMBER OF TRIPS, ESTABLISH SEASONAL OR OTHER TIME LIMITATIONS OR OTHERWISE LIMIT OR PRESCRIBE CONDITIONS THEY FEEL NECESSARY.

trailer shall not apply to vehicles operating in the daytime when transporting poles, pipe, machinery or other objects of a structural nature which cannot readily be dismembered, except that it shall be unlawful to operate any such vehicle or combination of vehicles which exceeds a total length of 85 feet unless a special permit for such operation has been issued by the secretary of transportation or by an agent or designee of the secretary pursuant to K.S.A. 8-1911 and amendments thereto. For the purpose of authorizing the issuance of such special permits at motor carrier inspection stations, the secretary of transportation may contract with the secretary of revenue for such purpose, and in such event, the secretary of revenue or any agent or designee of the secretary of revenue may issue such special permit pursuant to the terms and conditions of the contract. The limitations in this section shall not apply to vehicles transporting such objects operated at nighttime by a public utility when required for emergency repair of public service facilities or properties or when operated under special permit as provided in K.S.A. 8-1911 and amendments thereto, but in respect to such night transportation every such vehicle and the load thereon shall be equipped with a sufficient number of clearance lamps on both sides and marker lamps upon the extreme ends of any projecting load to clearly mark the dimensions of such load.

(f) The limitations of this section governing the maximum length of combinations of vehicles shall not apply to a combination of vehicles consisting of a truck tractor towing a house trailer, if such house trailer does not exceed 14 feet in width and such combination of vehicles does not exceed an overall length of 95 feet.

(g) The limitations of this section governing the maximum length of combinations of vehicles upon roads and highways under the jurisdiction of the secretary of transportation or local authorities shall not apply to any vehicle operating on a route designated by the secretary or local authority between a Kansas turnpike authority toll booth and a motor freight truck terminal located within a ten-mile radius of any such toll booth, except at the northeastern end of the turnpike at which location a twenty-mile radius shall apply, under a permit issued pursuant to K.S.A. 8-1911 and amendments thereto by the secretary, with res[pect] to roads and highways under the secreta[ry's] jurisdiction, or a local authority, with [re]spect to roads and highways under [the] local authority's jurisdiction. Notwithsta[nd]ing any other provision of law to the c[on]trary, for the purposes of this subsection, two-lane roads and highways within [the] corporate limits of a city shall be deeme[d to] be under the jurisdiction of such city.

History: L. 1974, ch. 33, § 8-1904; [L.] 1975, ch. 41, § 1; L. 1975, ch. 427, § 46; [L.] 1977, ch. 304, § 16; L. 1978, ch. 42, § 1; [L.] 1981, ch. 47, § 1; L. 1983, ch. 41, § 2; July [1].

8-1906. Securing loads on vehicles; [re]quirements for hauling livestock. (a) No [ve]hicle shall be driven or moved on any hi[gh]way unless such vehicle is so constructed [or] loaded as to prevent any of its load fr[om] dropping, sifting, leaking or otherw[ise] escaping therefrom, except that: (1) T[his] section shall not prohibit the necess[ary] spreading of any substance in highw[ay] maintenance or construction operations a[nd] (2) this section shall not apply to trailers [or] semitrailers when hauling livestock if su[ch] trailers or semitrailers are prope[rly] equipped with a cleanout trap and such tr[ap] is operated in a closed position unless m[a]terial is intentionally spilled when the tr[ap] is in a closed position.

(b) All trailers or semitrailers hauli[ng] livestock shall be cleaned out periodicall[y].

(c) No person shall operate on any hig[h]way any vehicle with any load unless su[ch] load and any covering thereon is secure[ly] fastened so as to prevent the covering [or] load from becoming loose, detached or [in] any manner a hazard to other users of t[he] highway.

History: L. 1974, ch. 33, § 8-1906; [L.] 1984, ch. 41, § 1; July 1.

8-1908. Gross weight limits on whee[ls] and axles. (a) The gross weight upon a[ny] wheel of a vehicle shall not exceed 10,0[00] pounds.

(b) The gross weight upon any one axl[e] including any one axle of a group of axles, [of] a vehicle shall not exceed 20,000 pound[s].

(c) Any axle located within seven feet [of] any adjacent axle shall at all times carry i[ts] proportionate part of the load permitted o[n] such axles.

(d) As used in this section:

(1) "Gross weight on any one axle

means the total load on all wheels whose centers are included within two parallel transverse vertical planes not more than 40 inches apart.

(2) "Tandem axles" means two or more consecutive axles, arranged in tandem and articulated from a common attachment to the vehicle or individually attached to the vehicle, with such axles spaced not less than 40 inches and not more than 96 inches apart.

(3) "Triple axles" means three or more consecutive axles, arranged in tandem and articulated from a common attachment to the vehicle or individually attached to the vehicle, with such axles spaced not less than 96 inches and not more than 120 inches apart.

(4) "Quad axles" means four or more consecutive axles, arranged in tandem and articulated from a common attachment to the vehicle or individually attached to the vehicle, with such axles spaced not less than 120 inches and not more than 150 inches apart.

(e) The gross weight on tandem axles shall not exceed 34,000 pounds.

History: L. 1974, ch. 33, § 8-1908; L. 1975, ch. 39, § 31; L. 1975, ch. 427, § 47; L. 1981, ch. 46, § 2; L. 1983, ch. 41, § 3; July 1.

8-1909. Gross weight limits for vehicles; exceptions; safety of certain vehicles for operation. (a) No vehicle or combination of vehicles shall be moved or operated on any highway when the gross weight on two or more consecutive axles exceeds the limitations prescribed in the following table:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles						
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles
4	34,000						
5	34,000						
6	34,000						
7	34,000						
8	34,000	34,000					
9	39,000	42,500					
10	40,000	43,500					
11	.....	44,000					
12	.....	45,000	50,000				
13	.....	45,500	50,500				
14	.....	46,500	51,500				
15	.....	47,000	52,000				
16	.....	48,000	52,500	58,000			
17	.....	48,500	53,500	58,500			
18	.....	49,500	54,000	59,000			
19	.....	50,000	54,500	60,000			
20	.....	51,000	55,500	60,500	66,000		
21	.....	51,500	56,000	61,000	66,500		
22	.....	52,500	56,500	61,500	67,000		
23	.....	53,000	57,500	62,500	68,000		
24	.....	54,000	58,000	63,000	68,500	74,000	
25	.....	54,500	58,500	63,500	69,000	74,500	
26	.....	55,500	59,500	64,000	69,500	75,000	
27	.....	56,000	60,000	65,000	70,000	75,500	
28	.....	57,000	60,500	65,500	71,000	76,500	82,000
29	.....	57,500	61,500	66,000	71,500	77,000	82,500
30	.....	58,500	62,000	66,500	72,000	77,500	83,000
31	.....	59,000	62,500	67,500	72,500	78,000	83,500
32	.....	60,000	63,500	68,000	73,000	78,500	84,500
33	.....	.....	64,000	68,500	74,000	79,000	85,000
34	.....	.....	64,500	69,000	74,500	80,000	85,500
35	.....	.....	65,500	70,000	75,000	80,500	
36	.....	.....	66,000	70,500	75,500	81,000	
37	.....	.....	66,500	71,000	76,000	81,500	
38	.....	.....	67,500	72,000	77,000	82,000	
39	.....	.....	68,000	72,500	77,500	82,500	
40	.....	.....	68,500	73,000	78,000	83,500	
41	.....	.....	69,500	73,500	78,500	84,000	
42	.....	.....	70,000	74,000	79,000	84,500	
43	.....	.....	70,500	75,000	80,000	85,000	
44	.....	.....	71,500	75,500	80,500	85,500	
45	.....	.....	72,000	76,000	81,000		
46	.....	.....	72,500	76,500	81,500		
47	.....	.....	73,500	77,500	82,000		
48	.....	.....	74,000	78,000	83,000		
49	.....	.....	74,500	78,500	83,500		
50	.....	.....	75,500	79,000	84,000		
51	.....	.....	76,000	80,000	84,500		
52	.....	.....	76,500	80,500	85,000		
53	.....	.....	77,500	81,000			
54	.....	.....	78,000	81,500			
55	.....	.....	78,500	82,500			
56	.....	.....	79,500	83,000			
57	.....	.....	80,000	83,500			
58	.....	.....	.....	84,000			
59	.....	.....	.....	85,000			
60	.....	.....	.....	85,500			

except that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each if the overall distance between the first and last axles is 36 feet or more.

(1) The gross weight on any one axle of a vehicle shall not exceed the limits prescribed in K.S.A. 8-1908, and amendments thereto.

(2) For vehicles and combinations of vehicles on the interstate system the table in this section shall not authorize a maximum gross weight of more than 80,000 pounds.

(3) The table in this section shall not apply to truck tractor and dump semitrailer or truck trailer combination when such are used as a combination unit exclusively for the transportation of sand, salt for highway maintenance operations, gravel, slag stone, limestone, crushed stone, cinders, coal, blacktop, dirt or fill material, when such vehicles are used for transportation to a construction site, highway maintenance or construction project or other storage facility. As used in this subpart (3), the term "dump semitrailer" means any semitrailer de-

signed in such a way as to divest itself of the load carried thereon.

(b) Any vehicle registered under the laws of this state which vehicle is designed and used primarily for the transportation of property or for the transportation of 10 or more persons may, at the time of its registration, be subjected by the director of vehicles to investigation or test as may be necessary to enable such director to determine whether such vehicle may safely be operated upon the highways in compliance with all provisions of this act. Every such vehicle shall meet the following requirements:

(1) It shall be equipped with brakes as required in K.S.A. 8-1734 and amendments thereto.

(2) Every motor vehicle to be operated outside of business and residence districts shall have motive power adequate to propel such vehicle and any load thereon or to be drawn thereby, at a speed which will not impede or block the normal and reasonable movement of traffic. Exception to this requirement shall be recognized when reduced speed is necessary for safe operation or when a vehicle or combination of vehicles is necessarily or in compliance with law or police direction proceeding at reduced speed.

(c) It shall be unlawful for any person to operate any vehicle or combination of vehicles with a gross weight in excess of the limitations set forth in article 19 of chapter 8 of Kansas Statutes Annotated, except as provided in K.S.A. 8-1911 and amendments thereto.

(d) As used in this section, "interstate system" means the national system of interstate and defense highways.

History: L. 1974, ch. 33, § 8-1909; L. 1975, ch. 427, § 48; L. 1980, ch. 45, § 1; L. 1981, ch. 46, § 3; L. 1983, ch. 41, § 4; July 1.

CASE ANNOTATIONS

1. The fine imposed by trial court for driving an overweight truck considered; not excessive. State v. Gibson, 8 K.A.2d 135, 651 P.2d 949 (1982).

2. Exemption of vehicles when used for "transportation to a construction site" construed to mean only a highway construction or maintenance site. State v. Shouse, 8 K.A.2d 483, 484, 485, 660 P.2d 970 (1983).

8-1910.

CASE ANNOTATIONS

1. Compliance with ten-mile limitation regarding portable scales did not affect conviction of driving overweight truck. State v. Shouse, 8 K.A.2d 483, 484, 660 P.2d 970 (1983).

8-1911. Permits for oversize or overweight vehicles. (a) The secretary of transportation with respect to highways under the secretary's jurisdiction and local authorities with respect to highways under their jurisdiction may, in their discretion, upon application in writing and good cause being shown therefor, issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in this act or otherwise not in conformity with the provisions of this act upon any highway under the jurisdiction of the party granting the permit and for the maintenance of which such party is responsible. Any permit authorized under this section may be for a single trip on a highway or route or for continuous operation on a highway or route. No permit shall be required to authorize the moving or operating upon any highway of farm tractors, combines, fertilizer dispensing equipment or other farm machinery, or machinery being transported to be used for terracing or soil or water conservation work upon farms, or vehicles owned by counties, cities and other political subdivisions of the state, unless such moving or operation occurs at any time from a half hour after sunset to a half hour before sunrise, except that this sentence shall not authorize travel on interstate highways. Application for any permit to operate a vehicle or combination of vehicles on the highways under the jurisdiction of the secretary of transportation may be made by telephoning the secretary for the permit. The secretary of transportation may then issue or withhold the permit by sending a collect telegram or making a collect telephone call to the applicant notifying the applicant thereof, and if the permit is granted, the applicant shall execute, in triplicate, a permit on a serially numbered form provided by the secretary. Such form shall require information specified in subsections (b) and (c). The provisions of subsections (c), (d) and (e) shall apply to the permit, and the original copy of the permit executed by the applicant or the copy of the telegram if the permit is granted by telegraph, shall accompany the vehicle or combination of vehicles in lieu of the regular

8-1911. Permits for oversize or overweight vehicles. (a) The secretary of transportation with respect to highways under the secretary's jurisdiction and local authorities with respect to highways under their jurisdiction may, in their discretion, upon application in writing and good cause being shown therefor, issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in this act or otherwise not in conformity with the provisions of this act upon any highway under the jurisdiction of the party granting the permit and for the maintenance of which such party is responsible. Any permit authorized under this section may be for a single trip on a highway or route or for continuous operation on a highway or route. No permit shall be required to authorize the moving or operating upon any highway of farm tractors, combines, fertilizer dispensing equipment or other farm machinery, or machinery being transported to be used for terracing or soil or water conservation work upon farms, or vehicles owned by counties, cities and other political subdivisions of the state, unless such moving or operation occurs at any time from a half hour after sunset to a half hour before sunrise, except that this sentence shall not authorize travel on interstate highways. Application for any permit to operate a vehicle or combination of vehicles on the highways under the jurisdiction of the secretary of transportation may be made by telephoning the secretary for the permit. The secretary of transportation may then issue or withhold the permit by sending a collect telegram or making a collect telephone call to the applicant notifying the applicant thereof, and if the permit is granted, the applicant shall execute, in triplicate, a permit on a serially numbered form provided by the secretary. Such form shall require information specified in subsections (b) and (c). The provisions of subsections (c), (d) and (e) shall apply to the permit, and the original copy of the permit executed by the applicant or the copy of the telegram if the permit is granted by telegraph, shall accompany the vehicle or combination of vehicles in lieu of the regular combination of vehicles until the regular written permit executed by the secretary is issued and received. Application by telephone shall be followed by the mailing to the secretary , within 24 hours, of the second copy of the permit executed by the applicant, which mailing shall constitute a written application as required. The third copy of the permit shall be retained by the applicant.

If it is determined by the secretary of transportation that any person who executed a permit has not complied with the applicable provisions of this section and the rules and regulations of the secretary of transportation relating thereto, the secretary may withdraw the privilege of executing such permits from the person.

(b) The application for the permit shall specifically describe the vehicle or combination of vehicles and load to be operated or moved and the highway or highway route for which the permit is requested. Any permit authorized under this section may be for a single trip or for continuous operation. The application shall specify the requested duration of the permit.

Upon proper application stating the description and registration of each power unit the secretary of transportation shall issue permits for a three-month period, from May 15 to August 15, for custom combine operators at the rate of $5 per power unit. Each application shall be accompanied by information as required by the secretary and shall permit movement of vehicles not to exceed 12′ in width and not overweight to travel on designated interstate highways as requested by the operator.

(c) The secretary or local authority may issue or withhold the permit at the secretary's or local authority's discretion or may limit the number of trips, or establish seasonal or other time limitations within which the vehicles described may be operated on the highways, or may otherwise limit or prescribe conditions of operations of such vehicle or combination of vehicles, when necessary to assure against undue damage to the road. The secretary or local authority may require such undertaking or other security as may be deemed necessary to com-

(d) Every permit [illegible] vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting the permit. It shall be unlawful for any person to violate any of the terms or conditions of special permit.

(e) The secretary of transportation shall charge and collect a fee of $5 for each special permit issued under the authority of this section, except no fee shall be charged for permits issued for vehicles owned by counties, cities and other political subdivisions of the state. The fees received under this section shall be remitted to the state treasurer who shall deposit the same in the state treasury and shall be credited to the state highway fund. The secretary may adopt rules and regulations for payment and collection of the fees.

(f) If any local authority does not desire to exercise the powers conferred on it by this section to issue or deny permits then such a permit from the local authority shall not be required to operate any such vehicle or combination of vehicles on highways under the jurisdiction of such local authority, but in no event shall the jurisdiction of the local authority be construed as extending to any portion of any state highway, any city street designated by the secretary as a connecting link in the state highway system or any highway within the national system of interstate and defense highways, which highways and streets, for the purpose of this section, shall be under the jurisdiction of the secretary.

(g) A housetrailer or mobile home which exceeds the width as provided in subsection (c) of K.S.A. 1983 Supp. 8-1902 may be moved on the highways of this state by obtaining a permit as provided in this section, if the driver of the vehicle pulling the housetrailer or mobile home has a valid driver's license and if the driver carries evidence that the housetrailer or mobile home, and the vehicle pulling it, are covered by motor vehicle liability insurance with limits of not less than $100,000 for injury to any one person, and $300,000 for injury to persons in any one accident, and $25,000 for injury to property.

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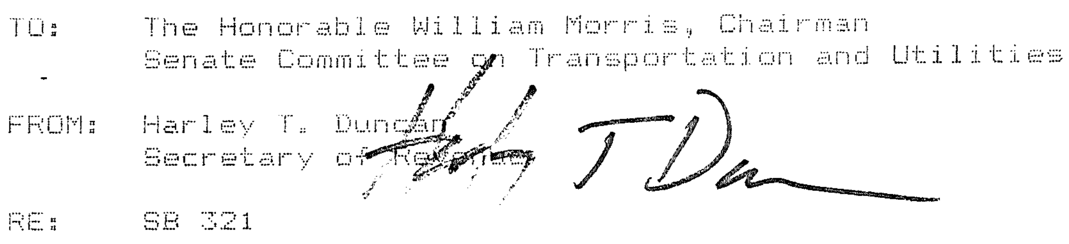
March 6, 1985

MEMORANDUM



TO: The Honorable William Morris, Chairman
Senate Committee on Transportation and Utilities

FROM: Harley T. Duncan
Secretary of Revenue

RE: SB 321

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 recommendations 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 reveiew the issur 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 indivuduals 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 as well as bills considered by this Committee last year.

Section-by-Section Analysis

Section 1 (page 6, lines 208-214) 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 company and the telephone book. It also requires that the hours

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of operation be posted on or adjacent to the structure.

Section 2 (page 10, lines 354-370) 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 386) 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 413-414) 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. 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.

Section 4 (pages 13-14, lines 469-515) 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 to 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.

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Statement before the
SENATE COMMITTEE ON TRANSPORTATION & UTILITIES
by the
KANSAS MOTOR CAR DEALERS ASSOCIATION
on
Senate Bill 321
Wednesday, March 6, 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 KMCDA 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 last year this 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. This 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. KMCDA 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.

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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 exsiting 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 is is his feeling that $500 was the price that should be set. When I came before you a few weeks ago 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 in there 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, we would like to thank the Senate Transportation and Utilities Committee for introducing SB 321. We think it is good and effective legislation, and 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 amendment, making the price of the full privilege tag $250,as well as a favorable report on SB 321 to the entire Senate.

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

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State of Kansas

State Corporation Commission

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

JOHN CARLIN Governor
MICHAEL LENNEN Chairman
MARGALEE WRIGHT Commissioner
KEITH R. HENLEY Commissioner
JUDITH A. McCONNELL Executive Secretary
BRIAN J. MOLINE General Counsel

STATEMENT PRESENTED ON MARCH 6, 1985, TO THE SENATE TRANSPORTATION AND UTILITIES COMMITTEE BY THE STATE CORPORATION COMMISSION OF KANSAS REQUESTING AN AMENDMENT TO SENATE BILL 321 TO CLARIFY LEGISLATIVE INTENT OF LOCAL WRECKER STATUTE

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I AM BILL GREEN, ADMINISTRATOR OF THE TRANSPORTATION DIVISION OF THE STATE CORPORATION COMMISSION. I APPEAR TODAY REQUESTING THAT THIS COMMITTEE GIVE CONSIDERATION TO ADDING AN AMENDMENT TO SENATE BILL 321. (SEE ATTACHMENT)

DURING THE 1984 LEGISLATIVE SESSION THE LEGISLATURE PASSED A LOCAL WRECKER BILL WHICH REQUIRES THE COMMISSION TO REGULATE LOCAL WRECKERS. AS A RESULT OF THAT BILL, THE COMMISSION'S STAFF AND KANSAS HIGHWAY PATROL BELIEVE THAT 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

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JURISDICTION TO THE ABOVE FIRMS AND INDIVIDUALS WHEN OPERATING WITH A DEALER TAG. THE ATTACHED AMENDMENT TO K.S.A. 1984 AUPP. 66-1,109 WILL RESOLVE THE QUESTION AS TO WHETHER OR NOT THE LEGISLATURE INTENDED TO REGULATE THE ABOVE MENTIONED FIRMS AND INDIVIDUALS; WHEN PRIOR TO SENATE BILL 591 (1984 SESSION) THESE FIRMS AND INDIVIDUALS WERE EXEMPT FROM THE COMMISSION'S JURISDICTION. I WOULD REQUEST THE COMMITTEE CONSIDER THE ATTACHED AMENDMENT.

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

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66-1,109. Exemptions from motor carrier statutes for certain carriers, certain transporters and certain uses. This act shall not apply to:

(a) Transportation by motor carriers wholly within the corporate limits of a city or village in this state, or between contiguous cities or villages in this state or in this and another state, or between any city or village in this or another state and suburban territory in this state within three miles of the corporate limits thereof, except that none of the exemptions specified in this subsection (a) shall apply to local wrecker carriers and none of such exemptions shall apply to motor carriers of passengers (other than motor carriers of passengers operating as a part of the general transit system serving any such city or village in this or another state) operating on regular routes and time schedules between any city or village in this or another state, and the suburban territory in this state;

(b) private motor carriers who operate within a radius of 25 miles beyond the corporate limits of such city or village;

(c) the owner of livestock or producer of farm products transporting livestock of such owner or farm products of such producer to market in a motor vehicle of such owner or producer, or the motor vehicle of a neighbor on the basis of barter or exchange for service or employment, or to such owner or producer transporting supplies for the use of such owner or producer in a motor vehicle of such owner or producer, or in the motor vehicle of a neighbor on the basis of barter or exchange for service or employment;

(d) persons operating motor vehicles used only to transport property when no common carrier is accessible, but when common-carrier service is available then this last exemption is limited to the transportation of such property from origin to the nearest practicable common-carrier receiving or loading point, or from a common-carrier unloading point by way of the shortest practicable route to destination, providing such motor vehicle does not pass a practicable delivery or receiving point of a common carrier equipped to transport said load, or when used to transport property from the point of origin to point of destination thereof when the destination of such property is less distant from the point of origin thereof than the nearest practicable common-carrier receiving or loading point equipped to transport such load;

(e)(1) the transportation of children to and from school, or (2) to motor vehicles owned by schools, colleges, and universities, religious or charitable organizations and institutions, or governmental agencies, when used to convey students, inmates, employees, athletic teams, orchestras, bands, etc.;

(f) a new vehicle dealer as defined by K.S.A. 8-2401 when transporting property to or from the place of business of such dealer;

(g) motor vehicles carrying tools, property, or material belonging to the owner of said vehicle, and used in repair, building or construction work, not having been sold or being transported for the purpose of sale, lease, rent or bailment;

(h) persons operating motor vehicles which have an ad valorem tax situs in and are registered in the state of Kansas, and used only to transport grain from the producer to an elevator or other place for storage or sale for a distance of not to exceed 50 miles;

(i) the operation of hearses, funeral coaches, funeral cars, or ambulances by motor carriers;

(j) motor vehicles owned and operated by the United States, the District of Columbia, or any state, or any municipality, or any other political subdivision of this state, including vehicles used exclusively for handling U.S. mail;

(k) any motor vehicle with a normal seating capacity of not more than the driver and 16 adult passengers while used for vampooling or otherwise not for profit in transporting persons who, as a joint undertaking, bear or agree to bear all the costs of such operations, or motor vehicles with a normal seating capacity of not more than the driver and 16 adult passengers for not-for-profit transportation by one or more employers of employees to and from the factories, plants, offices, institutions, construction sites or other places of like nature where such persons are employed or accustomed to work;

(l) motor vehicles used to transport water for domestic purposes or livestock consumption;

(m) transportation of sand, gravel, slag stone, limestone, crushed stone, cinders, calcium chloride, bituminous or concrete paving mixtures, blacktop, dirt or fill material to a construction site, highway

maintenance or construction project or other storage facility and the operation of ready-mix concrete trucks in transportation of ready-mix concrete;

(n) the operation of a vehicle used exclusively for the transportation of solid waste, as the same is defined by K.S.A. 65-3402, and amendments thereto, to any solid waste processing facility or solid waste disposal area, as the same is defined by K.S.A. 65-3402, and amendments thereto;

(o) the transporting of vehicles used solely in the custom combining business when being transported by persons engaged in such business;

(p) the operation of vehicles used for servicing, repairing or transporting of implements of husbandry, as defined in K.S.A. 8-1427, ny a person actively engaged in the business of buying, selling or exchanging implements of husbandry, if such operation is within 100 miles of such person's established place of business in this state; ~~and~~

(q) transportation by taxi or bus companies operated exclusively within any city or within 25 miles of the point of its domicile in a city~~.~~; and

(r) a vehicle being operated with a dealer license plate in compliance with K.S.A. 8-136 and acts amendatory thereof or supplemental thereto.

(r) A vehicle being operated with a dealer license plate issued under K.S.A. 8-2406 and amendments thereto, and in compliance with K.S.A. 8-136 and acts amendatory thereof or supplemental thereto and vehicles being operated with a full privileged license plate issued under Section 4.

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ATT. (6)