

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. ~~5:30~~ on March 20, 1985 in room 254-E of the Capitol.

All members were present ~~except~~.

Committee staff present:

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

Conferees appearing before the committee:

Capt. David Hornbaker, Highway Patrol  
Pat Barnes, Kansas Motor Car Dealers  
Harold Turntine, Department of Revenue

On a motion from Sen. Walker and a second from Sen. Hayden the Minutes of March 19, 1985 were approved. Motion carried.

H.B. 2024 - Tampering with Odometer

H.B. 2026 - Vehicle identification number checks, rules and regulations.

Hank Avila gave the background of these bills. It was the result of an interim study (Proposal 53). During the hearings the Highway Patrol testified before the committee and told them that in their checking of titles for enforcing laws they had found problems. The committee had introduced these two bills as a part of that study. They wanted to make it more severe to roll back odometers and wanted to increase penalties from a misdemeanor to a Class D felony. H.B. 2026 would give authorization to adopt rules and regulations pertaining to the roll-back of odometers.

H.B. 2026 - PROPONENT:

Capt. Hornbaker explained to the committee that they needed to have the rule and regulation authority in order to have uniformity and provide guidance to the designees of the verification procedure. A copy of his statement is attached. (Attachment 1).

Harold Turntine answered questions from the committee and said that vehicles coming into Kansas as salvage vehicles must have a "non-highway vehicle" title. This is necessary when cars have been in floods or have been severely damaged and does alert the customer that there was something wrong with the car at one time. The interim study suggested a salvage title but ran out of time. It was suggested that this should be considered in the 1986 session.

A motion was made by Sen. Francisco and seconded by Sen. Vidricksen that H.B. 2026 be reported favorably for passage. Motion carried.

HEARING ON H.B. 2024 - Tampering with odometer, felony

Capt. Hornbaker spoke of the need for increased penalties for odometer tampering. A copy of his statement is attached. (Attachment 2). He said the federal law was much tougher but it is harder to get a conviction. They are usually only after the really large rings and do not have time to prosecute individuals. That is one reason why the state needs tougher laws.

Pat Barnes, Kansas Motor Car Dealers, spoke in support of H.B. 2024 and said this tampering costs the consumer \$750 to \$1600 per car. Increasing the penalty to a felony would help give law enforcement officers the ability to police the tampering or alteration of odometers. A copy of his statement is attached. (Attachment 3).

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,  
room 254-E, Statehouse, at 9:00 a.m.~~p.m.~~ on March 20, 1985

The committee discussed this bill and thought that realistically no one would be put into prison because of odometer tampering. The prisons were overcrowded now.

Sen. Frey made a conceptual motion that H.B. 2024 be amended to raise the fine to \$750, not to exceed \$50,000 and a 6-month's confinement in the county jail.

Sen. Hayden seconded the motion.

Capt. Hornbaker told the committee that they should have an amount "not less than" in order to have a deterrent against tampering with odometers.

Sen. Hayden withdrew his second to the motion.

Sen. Frey made a conceptual motion that H.B. 2024 be amended to have a fine of a minimum of \$1000 and a maximum of \$50,000 and this would be applied for each violation. There would still be up to 6-months in county jail.

Sen. Martin seconded this conceptual motion. Motion carried.

Sen. Walker made a motion to report H.B. 2024, as amended, favorably for passage. Seconded by Sen. Frey. Motion carried.

Hank Avila gave a bried synopsis of all the bills remaining in the committee.

ACTION ON H.B.2516 - Motor vehicle license plates and identification cards issued to foreign consular officers.

Hank Avila told the committee that the Department of State had notified the Governor's office that pursuant to the Foreign Mission Amendments Act, states would be prohibited from issuing consular license plates.

A motion was made by Sen. Frey and seconded by Sen. Doyen that H.B. 2516 be reported favorably for passage and be placed on the Consent Calendar. Motion carried.

Meeting was adjourned at 10:00 a.m.

SENATE TRANSPORTATION AND UTILITIES COMMITTEE

3-20-85

Place 254-E

Time 9:00

GUEST LIST

<u>NAME</u>	<u>ADDRESS</u>	<u>ORGANIZATION</u>
PAT BARNES	TOPEKA	Ks. Motor Car Dealers Assoc.
Harold B. Turpin	"	Dept of Rev
Kevin Okunaka	"	KHP
JIM SULLINS	"	Ks. Motor Car Dealers Assoc
WALT DARLING	TOPEKA	Ks. DIVISION OF BUDGET
Edward J. Higgins	Topeka	Ks. Dept. of Transportation
Tom Whitaker	Topeka	Ks Motor Carrier Assoc.
Walt Thoms	Lanham	Motor Car Dealer
Jane Thoms	"	
Richard Schlegel	Manhattan	ABATE of Ks, Inc
Gene Clark	Topeka	KCDAA
RICK ENEYOLD	TOPEKA	ATTT

Summary of Testimony - House Bill 2026

Senate Committee on Transportation and Utilities

Kansas Highway Patrol  
(Captain David Hornbaker)

March 20, 1985

Appeared in Support

House Bill 2026 authorizes adoption of rules and regulations by the superintendent of the Kansas Highway Patrol and provides for penalties for violations, regarding KSA 1984 Supp. 8-116a and concerns the waiving of a second charge of \$10.00 to convert from a non-highway title to a regular highway title within 60 days.

The inspection bill as passed by the 1984 Legislature provided for the superintendent of the Patrol to designate the verification procedure if deemed necessary. At the present time we have designated agents in the greater Kansas City area and that procedure is working well.

Since an important part of the verification procedure is the validation of the mileage on the used vehicle, it is imperative that we have rule and regulation authority in order to have uniformity and provide guidance to the respective designees.

In addition, rules and regulations concerning the proper disposition of the completed forms and monies received are necessary to insure the integrity of the program.

Currently, the Department of Revenue requires the issuance of a like Kansas title when a vehicle enters the state. If the vehicle enters on a salvage title, Kansas issues a non-highway title since, at the present time, we have no salvage title.

Once the vehicle is repaired or rendered roadworthy, and many of these vehicles require minor repairs, the owner must have the VIN and title verified again pursuant to the current statute, again paying \$10.00.

This amendment to KSA 1984 Supp. 8-116a, would eliminate the second charge, but would retain the second examination.

We respectfully request the Committee's favorable consideration of House Bill 2026.

HTT. ①  
3/20/85

Summary of Testimony - House Bill 2024

Senate Committee on Transportation and Utilities

Kansas Highway Patrol  
(Captain David Hornbaker)

March 20, 1985

Appeared in Support

House Bill 2024 changes the wordage in KSA 8-611 to make it unlawful to alter or tamper with an odometer in a motor vehicle plus increases the penalties for violation to a Class D felony. A Class D felony carries a fine of not more than \$10,000 and/or imprisonment for not less than one year nor more than three years and a maximum of not less than five years nor more than 10 years.

A recent study of the National Highway Traffic Safety Administration of the United States Department of Transportation traced the ownership of 1,150 motor vehicles sold by national lease car companies. It was determined that the odometers on 1,068 of the vehicles (93%) had been altered to reflect substantially lower cumulative mileage readings and that the average wholesale profit on the vehicles sold with altered odometers was \$750 per vehicle. Furthermore, based on figures compiled by NHTSA as a result of their odometer tampering investigation, it has been determined that for every 10,000 miles that a vehicle's odometer is altered, there is a \$300-\$500 increase in the retail value of the vehicle depending on the model. Even more startling is the fact that nationally, odometer fraud costs consumers roughly \$2.8 billion each year.

It also should be pointed out that odometer tampering impacts on public safety. Purchasers of late-model, supposedly low mileage vehicles may be less concerned that their vehicle has a defect in a major component of the vehicle. Thus, they may be less likely to have their vehicle inspected because of their belief that the vehicle is in reasonably good condition.

I have brought with me some examples of titles which show obvious odometer tampering. These documents show tampering that is so obvious that anyone could detect it, but the new titles were issued by Oklahoma reflecting the lower mileage.

ATT. (2)  
3/20/85

The second method involves much more effort and is considerably harder to detect. This method involves what is known as "title washing" in order to "erase" mileages and previous owners from a title history. The scenario is as follows:

- A. Individual "Smith" trades his late model high mileage car to a dealer.
- B. High mileage vehicle is wholesaled, either directly or through an auto auction, to the "rollback" dealer.
- C. "Rollback" dealer applies for a duplicate title in "Smith's" name, forging "Smith's" name and obtains a new title showing original new miles. This transaction is usually handled through a title service.
- D. Vehicle is now sold direct from "Smith" to the "rollback" dealer showing new rolled-back mileage. In addition the first sale is totally erased.
- E. The vehicle now is usually passed through several dealers in several states to help "wash" the title and make the paper trail extremely difficult to handle.
- F. Vehicle is almost always sold through an auto auction to a used car dealer and then on to the final purchaser.

By "rolling back" the odometer reading, the vehicle has now increased a minimum of \$750 in value with a minimum of effort.

The Kansas Highway Patrol strongly supports this legislation and we ask that this Committee give it favorable consideration.

BEFORE THE SENATE TRANSPORTATION AND UTILITIES COMMITTEE

IN RE: HOUSE BILL 2024

TAMPERING WITH ODOMETERS OR OTHER  
DEVICES FOR REGISTERING MILEAGE

KANSAS MOTOR CAR DEALERS' ASSOCIATION - CONFERREE

Mr. Chairman, members of the Committee, my name is Pat Barnes and I serve as legislative counsel for the Kansas Motor Car Dealers Association. Our membership would like to express their support for H.B. 2024 dealing with the tampering or alteration of devices used for registering mileage on motor vehicles.

In the long run, strong penalties designed as a deterrent for fraudulent practices, such as altering the mileage shown on a motor vehicle, can serve to provide benefits to the consuming public and automobile dealers alike. Currently, tampering with an odometer costs the consuming public from \$750 to \$1,600 per car. This results in total average annual costs to the consumer of over 2 billion dollars. Our statistics also show the average odometer roll-back is 30,000 miles per vehicle.

Under H.B. 2024 odometer tampering is redefined as a Class D felony. K.S.A. 1984 Supp. 21-4501(d)(2) and K.S.A. 1984 Supp. 21-4503 would provide the penalties for conviction if H.B. 2024 were adopted by this Legislature. A minimum prison term of one to three years with a maximum of five to ten years could be imposed for conviction as well as a fine of up to \$10,000.

ATT. 3  
3/20/85

Because this bill would make tampering with an odometer or other mileage registering device a felony, a second or subsequent conviction would allow the sentencing judge the opportunity to increase, double or even triple the term of imprisonment depending upon the offender, his felony record and the circumstances of his particular case. (K.S.A. 1984 Supp. 21-4504).

Federal law also provides criminal penalties for odometer tampering. Under the federal enactment a violator may be fined not more than \$50,000 or sentenced to not more than one year imprisonment, or both. (15 U.S.C.A. §1990c). However, in this area federal law does not preempt state penalties which have been specifically reserved for the states. (15 U.S.C.A. §1991).

It is our opinion that upgrading this crime to a Class D felony will help give law enforcement officers in this state the ability to effectively police the tampering or alteration of devices used for registering motor vehicle mileage. A favorable report of this bill will help protect the quality of the automobile industry in this state which will necessarily benefit the consuming public.

Thank you for your attention.