

MINUTES OF THE House COMMITTEE ON Transportation

The meeting was called to order by Rex Crowell at
Chairperson

1:30 ~~am~~/p.m. on February 11, 1986 in room 519-S of the Capitol.

All members were present except:

Representatives Smith, Knopp and Justice - Excused.

Committee staff present:

Bruce Kinzie, Revisor of Statutes
Hank Avila, Legislative Research
Donna Mulligan, Committee Secretary

Conferees appearing before the committee:

Representative Herman Dillon
Ms. Janet Bohannon, Lupus Foundation
Dr. P. J. Hallgrimson, Lenexa, Kansas
Mrs. Diana Hallgrimson, Lenexa, Kansas
Ms. Marilyn Osgood, Louisburg, Kansas
Ms. Ann Stice, Topeka, Kansas
Mr. Peter Santoro, Pro Tint Company
Mr. Bob Clester, Kansas Sheriffs Association
Lt. Bill Jacobs, Kansas Highway Patrol
Mr. Jim Sullins, Kansas Motor Car Dealers Association
Mr. Leigh Nichols, Motor Vehicle Manufacturers Association

The meeting was called to order by Chairman Crowell and the first order of business was a hearing on HB-2755 concerning the use of adhesive film or glaze on windshields, side wings and side windows.

Representative Dillon, principal sponsor of HB-2755, briefed the Committee on its contents.

Ms. Janet Bohannon, Kansas City, Kansas, representing the Lupus Foundation, testified in support of HB-2755. (See Attachment 1)

Ms. Bohannon explained to the Committee that Lupus patients are allergic to ultra-violet rays which penetrate automobile windows. She stated that victims of Lupus many times become severely ill when merely traveling in a vehicle during the day while the sun is shining.

Dr. P. J. Hallgrimson, Lenexa, Kansas, gave favorable testimony concerning HB-2755. He indicated national statistics show that approximately 50 percent of Lupus patients are sensitive to sunlight and develop a rash and become ill while riding in automobiles.

Dr. Hallgrimson stated that passage of HB-2755 which would allow adhesive film to be placed on automobile windshields would be of great help to the many Lupus patients.

Representative Spaniol asked how many people are afflicted with the Lupus disease. Dr. Hallgrimson said there are 500,000 persons with Lupus and in Kansas it is estimated there are 20,000 persons.

Mrs. Diana Hallgrimson, Lenexa, Kansas, testified in favor of HB-2755, and told the Committee that she herself is a Lupus patient. Mrs. Hallgrimson gave a personal account of an incident wherein she experienced sunlight briefly coming in through a car window, and had to be taken to the intensive care unit at the hospital that evening.

CONTINUATION SHEET

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Ms. Marilyn Osgood, Louisburg, Kansas, testified favorably concerning HB-2755, and urged passage of the bill.

Ms. Ann Stice, Topeka, Kansas, also testified in favor of HB-2755.

Mr. Pete Santoro, Pro Tint Company, Kansas City, Missouri, testified in support of HB-2755. He showed samples of windshield film to the Committee. (See Attachment 2)

Ms. Bohannon provided the Chairman with a letter from Nabih I. Abdou, M.D., Ph.D., The University of Kansas, stating that shielding or darkening windows would prevent the penetration of the Beta Wave length which can be very harmful to some Lupus patients by activating their disease. (See Attachment 3)

Mr. Bob Clester, Kansas Sheriffs Association, testified in opposition to HB-2755. (See Attachment 4)

Mr. Clester stated opposition to HB-2755 is not from lack of compassion for those with physical disorders, but stems from the following questions: 1) Are the benefits sufficient to offset the loss of safety through impairment of the drivers vision; 2) To what degree will the visibility from the exterior of the vehicle be impaired for identification and observation of the actions of the occupants; and 3) What is the legality if the permit holder is neither the driver nor a passenger in the vehicle that has been equipped for them.

Lt. Bill Jacobs, Kansas Highway Patrol, spoke in opposition to HB-2755. He said the safety of law enforcement officers is of great concern, and requested if the bill is passed, that the lightest possible film be used.

The hearing on HB-2755 was concluded.

The next business was a hearing on HB-2800 concerning the compliance of certain warranties under the Lemon Law.

Mr. Jim Sullins, Kansas Motor Car Dealers Association, testified in support of HB-2800. (See Attachment 5)

Mr. Sullins said during the 1985 Legislative Session, Kansas enacted a so-called "Lemon Law" which provides additional remedies to consumers who purchase new vehicles which do not conform to the manufacturer's new vehicle warranties.

He added that HB-2800 affects only the relationship between the manufacturer and their franchised dealers, and in no way affects any remedy which the consumer may have under the "Lemon Law" or any other applicable statute.

Mr. Sullins indicated HB-2800 provides the franchised dealers protection from having to bear the burden of the costs which should be rightfully absorbed by the manufacturer of the vehicle who offers the warranty on that vehicle.

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Mr. Leigh Nichols, Motor Vehicle Manufacturers Association, testified in opposition to HB-2800.

Mr. Nichols referred to Subsection (c) of HB-2800 and indicated he felt they should be able to use complaints under the "Lemon Law" as evidence in regard to the performance of their authorized dealers.

Chairman Crowell asked if he would consider HB-2800 as it is currently written as an unwarranted incursion into contractual agreements between the manufacturer and the retailer. Mr. Nichols replied that he would think so.

The hearing on HB-2800 was concluded.

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


Rex Crowell, Chairman

GUEST LIST

COMMITTEE: Transportation

DATE: 2-11-86

PLEASE PRINT

NAME	ADDRESS	COMPANY/ORGANIZATION
PAT Barnes	TOPEKA	Ks. Motor Car Dealers Assn.
Edna Stryker	Atchison	
Kathleen Connors	Atchison	
Marge Laufermann	Atchison Mo	Project Concern
Gray T Lewis		
Mildred Ewing	Atchison Mo	Project Concern
Hazel Briggs	Atchison Mo	Project Concern
Julian Jiners	Atchison, Mo.	Project Concern
Digna Halpinson	Lepesa, Kansas	Lupus Foundation
Paul J. Halpinson Mrs.	Lepesa, Kansas	Lupus Foundation
Marilyn Osgood	Louisburg Ka	Lupus Found.
Ann Stice	Topeka, Kas. 66604	Lupus patient
Garet Bohona	K.C.K.S	Lupus Patient
Bob Chester	Topeka	Ks. SHERIFFS ASS'N
Heather Butters	K.C.K.S	Lupus protest
JIM SULLINS	TOPEKA	Ks. MOTOR CAR DEALERS ASSN
RON CALBERT	NEWTON	WJU
Susan Muffy	Topeka	Budget Division
Bill [unclear]	"	REVENUE
ED DE SOIGNIE	TOPEKA	KDOT
LT. BILL JACOBS	TOPEKA	KHP
STEVEN HENDRICKS	TOPEKA	GOVERNOR'S OFFICE
Carol marker	Carbondale	Lupus patient
Mary E Tunington	Topeka	KANSAS MOTOR CAR DEALERS ASSN.
Patricia Wiechman	Topeka	K. A. D. R. A.
John Hanna	Topeka	AP

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Judith Penn Fund at Industrial State Bank



Judith Garrett Penn

A fund has been established at The Industrial State Bank for Judith Garrett Penn, 32, 1419 S. 30th St.

Judy was stricken with Lupus disease in 1973. There is no known cure. She has been treated with prednisone but there has been no remission. The past year she

has grown steadily worse. In October she was admitted to Bethany hospital with no results. On Jan. 9 she entered Bethany again and was moved to intensive care on Jan. 13. Then on the 18th she was moved to the North Kansas City hospital. She is on nine different machines. The hospital room runs \$1,000 per day, the respirator costs \$300 per day and no one knows what the total hospital bill will amount to.

Judy is the daughter of Dorothy Hansel and grew up in this area. She graduated from Argentine High School and married George Penn, her high school sweetheart.

The Penns have two daughters, Cheryl 11 and Anita 7 who attend Emerson School.

(Ed. note) Judith Garrett Penn died at midnight last Monday night.

*H. Transp. 2/11/80
Attachment 1*



PRODUCT NUMBER:



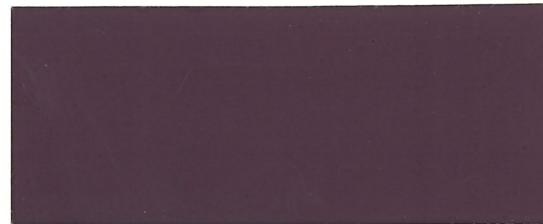
MTG-80-X



MTG-50-X



MTG-35-X



MTG-20-X

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H. Transp. 2/11/86
Attach. 2



THE UNIVERSITY OF KANSAS

Department of Internal Medicine
Division of Allergy,
Clinical Immunology and Rheumatology
College of Health Sciences and Hospital
39th and Rainbow Blvd., Kansas City, Kansas 66103

(913) 588-6008
(913) 588-6009

Daniel J. Stechschulte, M.D., Director
Nabih I. Abdou, M.D., Ph.D.
Herbert B. Lindsley, M.D.
Thomas Jamieson, M.D.

Lisa Schwartz, R. N.
Nurse Clinician

January 27, 1986

Max Benjamin
8831 Ensley Lane
Leawood, KS 66206

Dear Mr. Benjamin:

I will be happy to go with Ms. Bohanon and the rest of the group to support the request about the use of darkened windows and tinting glass for automobiles for lupus patients.

Please let me know where and when this meeting occurs so I will be prepared.

Sincerely yours,

Nabih I. Abdou, M.D., Ph.D.
Professor of Medicine

NIA:jls

cc: Janet Bohanon ✓

" Some patients could be affected by rays, but, shielding or darkening windows would prevent the penetration of the Beta Wave length that could be very harmful to some Lupus patients by, activating thier disease".

(Quoted via the phone 2/10/1986, for the hearing before the Transportation Committee-Hearing, Topeka, 2/11/86)

Opposition to H.B. 2755

Kansas Sheriffs Association
Kansas Peace Officers Association
Kansas Association of Chiefs of Police
Kansas State Troopers Association
Kansas Bureau of Investigation Agents Association

At a meeting of the above listed law enforcement associations, on February 3, 1986, the members present voted to oppose H.B. 2755.

The opposition is not from a lack of compassion for those with physical disorders but stems from the following questions:

Are the benefits sufficient to offset the loss of safety through impairment of the drivers vision.

To what degree will the visibility from the exterior of the vehicle be impaired for identification and observation of the actions of the occupants..

What is the legality if the permit holder is neither the driver nor a passenger in the vehicle that has been equipped for them.

*H. Transp. 2/11/86
Attach. 4*

Statement Before the
HOUSE COMMITTEE ON TRANSPORTATION

by the
KANSAS MOTOR CAR DEALERS ASSOCIATION

Tuesday, February 11, 1986

Re: HOUSE BILL 2800

Mr. Chairman and Members of the Committee, I am Jim Sullins, Executive Vice President of the Kansas Motor Car Dealers Association, the state trade association representing 392 franchised new car and truck dealers in Kansas. We would like to thank the Committee for introducing HB 2800 at our request and for the opportunity to come before you to speak on the issue.

As you will remember, during the 1985 session of the Legislature, Kansas enacted a so-called "Lemon Law" which provides additional remedies to consumers who purchase new vehicles which do not conform to the manufacturer's new vehicle warranties.

To briefly review with you that act which is found in K.S.A. 1985 Supp. 50-645 and 50-646, the statutes apply to new vehicles registered for a gross weight of less than 12,000 pounds and does not include the customized parts of vehicles which have been added or modified by second stage manufacturers, first stage converters or second stage converters. The act becomes applicable if the vehicle does not conform to all applicable warranties of the manufacturer. If said manufacturer is not able to conform the vehicle to those warranties, then the manufacturer is required to replace the motor vehicle with a comparable vehicle under warranty or repurchase the vehicle including collateral charges, less a reasonable charge for use of the vehicle by the consumer.

*H. Transp. 2/11/86
Attach. 5*

The act goes on to outline a reasonable number of attempts which the manufacturer has to conform the vehicle to the warranties as well as provide for an arbitration process to be used by the consumer prior to seeking court relief if such arbitration process has been established by the manufacturer.

Finally, the act states that "Nothing in this act shall in any way limit the rights or remedies which are otherwise available to a consumer under the uniform consumer credit code, or to any person under the uniform commercial code, or to any person under any other law statutory or otherwise."

The "Lemon Law" is aimed, and rightfully so, at taking care of a consumer, and we feel that the intent and purpose has been satisfied with the language found in the act. Today, we come before you to ask for some protection for the franchised dealer who sells the manufacturer's product which may be replaced or repurchased under the "Lemon Law."

If a vehicle is replaced or repurchased under the "Lemon Law" or any other applicable statute, the consumer's complaint will have been satisfied and the consumer will have been taken out of the picture. However, the manufacturer will have a vehicle on their hands and will be out a lot of money concerning that vehicle. We feel that it is possible that the manufacturer will then be looking for ways to minimize their losses. One possible way for the manufacturer to minimize their losses would be to find some way to have the selling dealer share in the cost of the replacement or repurchase.

The bill you have before you prevents the manufacturers from taking steps against the dealer in three ways. First, it prevents them from charging back against the dealer the cost of any repairs which were necessary in conforming, or attempting to conform, the vehicle to all applicable warranties. Second, it prevents the manufacturer from charging back the costs incurred when the manufacturer replaces or repurchases the vehicle. And third, it prevents the manufacturer from refusing to renew a franchise agreement or from cancelling or terminating a franchise agreement based on facts arising out of or in conjunction with the application of subparagraphs (a) and (b).

We are proposing this legislation from a preventative standpoint as to date there have not been any situations, to the best of our knowledge, of a chargeback like this happening in Kansas. As a matter of fact, we do not know of any "Lemon Law" cases going to court since the bill took effect in July, 1985.

While we do not know of this happening in Kansas, we want to prevent this type of occurrence. We feel that if actions are taken by consumers under the "Lemon Law," then manufacturers could possibly try to involve the dealer in some matter. For example, assuming that a vehicle has been in with major engine problems for the required 4 attempts to repair, a dealer could have a substantial amount of warranty parts and labor charges outstanding against that vehicle. If the manufacturer did replace or repurchase, it would be a possibility that the manufacturer could refuse to pay the dealer's warranty claims, thereby saving the manufacturer a substantial amount with regards to that vehicle.

We contend that the warranties concerning the vehicle are those of the manufacturer, and that those warranty costs are the manufacturer's responsibility.

The manufacturer designed, engineered and built the vehicle. The dealer has no say in what goes in or on the vehicles. If something the manufacturer does or makes is wrong, then the manufacturer should bear the burden.

Mr. Chairman and Members of the Committee, this bill affects only the relationship between the manufacturer and their franchised dealers. In no way does it affect any remedy which the consumer may have under the "Lemon Law" or any other applicable statute. HB 2800 provides the franchised dealers protection from having to bear the burden of the costs which should be rightfully absorbed by the manufacturer of the vehicle who offers the warranty on that vehicle.

We thank you for your time and consideration, and ask that when you take action on this bill, you will report HB 2800 to the full House favorable for passage.