

MINUTES OF THE House COMMITTEE ON Transportation

The meeting was called to order by Rex Crowell at  
Chairperson

1:30 ~~xxx~~ p.m. on March 19, 1986 in room 519-S of the Capitol.

All members were present except:

Representative Norman Justice - Excused.

Committee staff present:

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

Conferees appearing before the committee:

Mr. Ray Petty, Kansas Department of Human Resources  
Mr. Robert O'Dell, Kansas Department of Social & Rehabilitation Services  
Mr. Bob Burke  
Mr. Harold Turntine, Kansas Department of Revenue  
Mr. Ed DeSoignie, Kansas Department of Transportation

The meeting was called to order by Chairman Crowell and the first order of business was a hearing on SB-429 concerning parking privileges for the handicapped.

Hank Avila briefed the Committee on the bill and said SB-429 is a result of a 1985 Interim study, and it provides for basic identification of parking spaces for the handicapped by using upright signs. He said the bill also makes the penalty for unauthorized use, an unclassified misdemeanor and subject to a fine of \$25.

Committee discussion ensued concerning handicapped parking privileges and it was noted persons are continuing to use handicapped parking permits after the person for whom it was issued, is deceased. Representative Shore suggested having a different color tag issued every three years to help avoid this problem.

Mr. Ray Petty, Kansas Department of Human Resources, testified in support of SB-429. (See Attachment 1) He urged the Committee to recommend SB-429 favorable for passage.

Mr. Robert O'Dell, State Department of Social and Rehabilitation Services, gave testimony in support of SB-429. (See Attachment 2)

Mr. O'Dell said the current law provides special license or placards for parking in designated handicapped spaces with limited enforcement authority. He stated SB-429 clarifies the enforcement issues and addresses the chronic abuse problem associated with designated handicapped parking.

Mr. Bob Burke, spoke in favor of SB-429. (See Attachment 3)

Mr. Harold Turntine, Department of Revenue, testified in support of SB-429.

The Chairman distributed copies of testimony from the Kansas Food Dealers' Association expressing support of SB-429. (See Attachment 4)

Mr. Ed DeSoignie, Kansas Department of Transportation, testified concerning SB-429 and stated the Department supports the bill.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,  
room 519-S Statehouse, at 1:30 ~~am~~ p.m. on March 19, 19 86

Attention for Committee discussion and action, was turned to SB-603 regarding penalties for failure to comply with registration requirements.

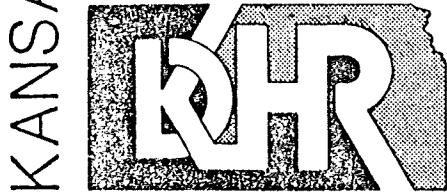
A motion was made by Representative Moomaw that SB-603 be recommended favorable for passage and put on the Consent Calendar. The motion was seconded by Representative Shore. Motion passed.

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

  
Rex Crowell, Chairman



# KANSAS DEPARTMENT OF HUMAN RESOURCES



## ADVISORY COMMITTEE ON EMPLOYMENT OF THE HANDICAPPED

1430 S.W. Topeka Avenue, Topeka, Kansas 66612-1877  
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John Carlin, Governor

Larry E. Wolgast, Secretary

To: Chairman Rex Crowell and members of  
the House Transportation Committee  
From: Ray Petty, Legislative Liaison, KACEH  
Re: Senate Bill 429 - handicapped parking  
Date: March 20, 1986

Yesterday, I testified in support of S.B. 429 which amends the statutes dealing with handicapped parking privileges. This memo will both restate our position on this bill and briefly address the questions raised by the committee.

We support S.B. 429 in its current version. Having worked very hard on this bill during the interim and Senate committees, I believe that this bill will set Kansas far in front of other states in terms of handicapped parking.

There were a few recommendations we offered during the development of this measure that have been removed - but we would be extremely satisfied should the bill be passed unamended. However, there may be room for improvement, and our office will be pleased to assist in making changes as they are warranted.

I will attempt to address possible changes in the following summary of my answers to your questions of yesterday afternoon.

First, mention should be made of the concern I expressed over the definition, which stresses walking mobility, and the relationship of that definition to certain disabilities. In the Senate, I suggested that wording taken from Illinois law - ", or without great difficulty or discomfort" be added after "device" in line 30. At that time, my concern was with pulmonary and cardiac conditions. We do wish to limit eligibility of these privileges to persons with mobility problems and exclude, for example, a person with limited shoulder mobility. But the issue is not that a person's legs don't work too well, but that they are incapacitated from getting from point A to point B, regardless of the disabling condition.

When I suggested the above amendment in the Senate committee, Senators Dr. Walker and Francisco, both of whom admitted to cardiac conditions objected that such language would make vague and imprecise a definition which was chosen for its objective 200 foot criterion. In other words, such an amendment would be too broad.

*H. Transp. 3/19/86  
Attachment 1*

Prior to my testimony yesterday, Representative Dillon raised the issue of persons with skin sensitivity - the same group of persons who have asked for window glazing exemptions in S.B. 559 which is before this committee. Since the Senate hearings, I also was made aware of these concerns. Persons with Lupus, Chronic Epstein-Barr Disease, and Chemically-Induced Photosensitivity are also among persons who may need coverage here.

My suggestion at the time was that the medical advisory board provided for in K.S.A. 8-255b (Dept. of Revenue) be put into the bill as the arbitrator of marginal cases. Since the physicians are under the gun with the fraud provisions in lines 147-152, it stands to reason that having the board rule on sensitive applications would provide more due process without overburdening that board or putting unfair stress on physicians. This morning I spoke with Bill Edds, counsel to the Dept. of Revenue, and he reminded me that the department had made pretty much that very offer in earlier hearings. [see H.B. 2549 for reference].

Representative Shore's idea about changing the color of the placards periodically is a good one, and it appears that the department is already attending to his suggestion.

Representatives Adam and Spaniol expressed concern with the amount of abuse and how to deal with it. Two pieces of research were referenced. In a nutshell they are:

1. KACEH surveyed disabled persons statewide in 1983 and again in 1985. 491 persons responded to both surveys. The item "handicapped parking ordinances are strictly enforced" was high in importance on both surveys (91% and 86% respectively). Satisfaction ratings were 48% in 1983 and 38% in 1985 indicating that consumers are becoming more dissatisfied with enforcement. Out of 30 items on each survey, this issue was respectively the 9th and 4th priority problem identified. That degree of consistent concern was largely responsible for our involvement on this bill.

2. Other data developed in Lawrence by Steve Fawcett and associates at the Institute for Public Policy and Business Research at KU indicated that adding metal upright signs alone in spaces previously marked only by a ground-painted sign can reduce violations from nearly 50% to nearly 0%. That improvement was not maintained without enforcement, however.

Further, at least some municipal courts regard upright signs as a necessary condition for enforcement and have thrown out tickets written on spaces with ground markings only.

We therefore support the maintenance of upright signs and enforcement as the means to reduce illegal parking by persons without handicapped parking devices.

The other type of violator is a person who has access to a handicapped parking device (license plate or placard) but who is not the person to whom the device was issued. The bill in New Section 7 provides that false utilization is a class C misdemeanor. Representative Patrick thinks that may be too harsh. Representative Knopp said that those violators should not be parking in those slots.

We doubt that the court will throw the book at such persons, at least for first offenses. Since the committee is concerned with repeat offenses and revocation or suspension of devices, it does make sense to allow for stiffer penalties for repeat violators.

Representative Spaniol asked for draft language which would allow:

1. the secretary of revenue to suspend or revoke devices and
2. to provide a graduated fine schedule for violations.

With regard to #1, we supported the language in lines 76-81 which was struck in the Senate committee. In fact we suggested that "or violated any of the provisions of Section 7" be inserted after "3" in what is now line 81. I believe that the Senate committee (Senator Frey, I recall) was concerned with due process.

It seems to me that the Department of Revenue has rulemaking authority (lines 153-154) and that explicitly giving the Secretary of Revenue the authority to revoke or suspend will result in rules for doing so which will overcome any due process objections.

Fifteen states provide for recall or revocation of these privileges (AK,AZ,CA,CO,CT,IA,MI,MN,NJ,NY,ND,OH,UT,VT,WY) and Nebraska has a 6 month suspension. With the three year review process included in this bill (lines 60-63), such authority appears to be implicit. It should be made explicit.

The language in the bill might read "The Secretary of Revenue may revoke or recall handicapped parking privileges in the event that a person has repeatedly violated provisions of Section 3, has violated any provision of Section 7, or is determined by the Secretary to be ineligible for such privileges." That or similar language could be reinserted on the bottom of page 2.

With regard to the fines for unauthorized parking - we recommended during the interim that the uniform vehicle code be amended to include a \$10 fine (see bottom of page 6). The interim committee changed that to \$25. The revisor (Fred Carman) said that the UVC could not be amended in this way and suggested the misdemeanor contained in the bill now. The committee changed the fine to "not more than \$25".

Four states provide graduated fines for repeat offenses as follows:

<u>STATE</u>	<u>1ST</u>	<u>OFFENSE</u>	
		<u>2ND</u>	<u>3RD</u>
Georgia	<100	100-200	200-500
New York	10	15	
Rhode Island	25	75	100
Tennessee	<25	>50	

There is obviously no consensus on the amount of the fines. We would prefer that first offenses be in the \$10-\$25 range, with subsequent offenses stepped up to perhaps \$50 and \$100.

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If this brief has not adequately covered my oral testimony and the issues raised in committee, I am prepared to make available to you more information that you might wish to see.

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Statement Regarding S.B. 429

Title:

Amendments of K.S.A. 8-161 and K.S.A. 1985 Supp. 8-2118 and repealing the existing section; also repealing K.S.A. 1985 Supp. 8-132a, expanding law enforcement and protection of handicapped parking.

Purpose:

Current law provides special license or placards for parking in designated handicapped spaces with limited enforcement authority. This bill clarifies the enforcement issues and addresses the chronic abuse problem associated with designated handicapped parking.

Background:

The bill strikes at the enormous abuse problem of non-disabled parking in handicapped spaces; provide uniform parking (size and marking); and currently limited law enforcement. The requirement of persons carrying handicapped parking identification cards would assist law enforcement officers determine abusers of handicapped parking. Law enforcement officers would have clear enforcement authority on private property as supported by retailers. Kansas would adhere to American National Standards Institute (ANSI) standards for parking space size and upright signs with the international symbol of access. Uniform fine schedules would be set. Handicap identification devices of other states would be recognized. A more specific definition of mobility is included. Physicians will be fined if they certify a non-disabled person for purposes of obtaining handicapped parking permit.

Effect of Passage;

Abusers of handicapped parking on public and private property will be identified easily and fines will be levied. Retailers will not be involved with abusers being ticketed. Handicapped parking spaces will be more obvious due to the requirement of an upright sign. Parking spaces will be large enough to accommodate a specially equipped van with lift. Physicians are provided a clearer definition of persons who qualify for handicapped parking. The handicapped identification cards of non-Kansans will be respected.

SRS Recommendation;

Social and Rehabilitation Services recommends passage of Senate Bill 429 because it clearly addresses the major problems surrounding handicapped parking.

Robert C. Harder  
Secretary  
Social and Rehabilitation Services  
296-3271  
March 19, 1986

*H. Transp. 3/19/86  
Attach. 2*



3-20-86

MR CHAIRMAN,

SB 429 NEEDS TO BE PASSED SO THE DEPT OF REVENUE AND LAW ENFORCEMENT AGENCY'S CAN ENFORCE THE LAW. THEY CURRENTLY CAN'T ARREST PERSONS WITH STOLEN CARDS, PERSONS WITH CARDS THAT THE DOCTOR SIGNED CAN'T BE ARRESTED OR THE DOCTOR HELD ACCOUNTABLE EVEN THOUGH THAT PERSON DOESN'T MEET STATE REQUIREMENTS.

THE STATE CAN'T RECALL CARDS OR EVEN CHECK WITH THE DOCTOR IF THEY SUSPECT THE APPLICANT ISN'T QUALIFIED.

DOCTORS WILL CURRENTLY SIGN FORMS AND "DON'T KNOW" OR "DON'T CARE" ABOUT THE "SEVERE MOBILITY IMPAIRMENT", THEREFORE THERE ARE MANY CARDS AND TAGS ISSUED THAT SHOULDN'T BE.

I FEEL THAT SB 429 COVERS MOST OF THE BASES FOR HANDICAPPED LICENSE PLATE AND CARD USERS AND WILL LIMIT THESE DEVICES TO THOSE PERSONS WHO TRULY HAVE SEVERE MOBILITY PROBLEMS.

AGAIN, I REPRESENT NO CERTAIN GROUP BUT I WORK CLOSELY WITH THE TOPEKA POLICE DEPT., Ks. DEPT OF H. TRANSP. 3/19/86 Attachment 3

REVENUE AND THE TOPEKA - SHAWNEE  
COUNTY HANDICAPPED ADVISORY COMMITTEE.

I AM ON TOTAL DISABILITY WITH  
MUSCULAR DYSTROPHY AND WEAR LEG  
BRACES ON BOTH LEGS. I HAVE BEEN  
WORKING OF THE ABUSE OF HANDICAPPED  
PARKING FOR OVER 3 YEARS AND FEEL  
SB 429 IS VERY CLOSE TO PERFECT,  
I WOULD APPRECIATE YOUR PASSING  
OF THIS BILL. THANK YOU.

SINCERELY,

Bob Burke

BOB BURKE

913-266-8649

4220 SE MINNESOTA

TOPEKA, KANSAS 66609



# Kansas Food Dealers' Association, Inc.

2809 WEST 47th STREET SHAWNEE MISSION, KANSAS 66205

PHONE: (913) 384-3838

March 19, 1986

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DIRECTOR OF  
GOVERNMENTAL AFFAIRS

FRANCES KASTNER

## HOUSE TRANSPORTATION COMMITTEE

RE: SB 429

EXECUTIVE DIRECTOR  
JIM SHEEHAN  
Shawnee Mission

Mr. Chairman, and members of the Committee I am Frances Kastner, Director of Governmental Affairs for the Kansas Food Dealers Association. Our membership consists of grocers, wholesalers and distributors of food products throughout the State of Kansas.

During the Interim Committees deliberations we contacted a number of our members and found overwhelming sentiment that the spaces currently being provided for the handicapped who shop at our grocery stores often are occupied by those who certainly are not handicapped and do not have properly identified vehicles. Usually by the time a complaint was lodged with the store managers the violators had left.

We believe that the strict enforcement outlined in SB 429 will be of benefit to the truly handicapped. As we understand the bill, however, ONLY tickets for handicapped violations will be issued, rather than also writing a ticket for a broken tail light on another vehicle, for example. We are in favor of that limitation.

It would appear that by more stringent monitoring of those issued handicapped identification, and a few tickets issued to violators, we will have handicapped parking spaces available for those who need it.

We appreciate the fact that you have made it a voluntary program, and that if indeed our members want to provide parking spaces for the handicapped, the use of the upright signs will indicate their participation.

Thank you for the opportunity of appearing before you and voicing our support of SB 429. I will be happy to answer any questions you may have.

H. TRANSP. 3/19/86  
Attach. 4