

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 25, 1986 in room 519-S of the Capitol.

All members were present ~~except~~:

Committee staff present:

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

Conferees appearing before the committee:

Secretary Harley T. Duncan, Kansas Department of Revenue
Dr. James McHenry, Kansas Dept. of Social & Rehabilitation Services
Representative George Teagarden
Mrs. Connie Hubbell, Kansas State Board of Education
Ms. Chris Graves, Associated Students of Kansas
Ms. Jane Morrissey, Kansas Association of Prevention Professionals
Ms. Elizabeth Taylor, Kansas Association of Alcohol & Drug Program Directors
Mr. Richard D. Schlegel, ABATE of Kansas
Senator Robert Frey
Mrs. Mary Turkington, Kansas Motor Carriers Association
Mr. Jim Sullins, Kansas Motor Car Dealers Association
Mr. David H. Moses, Sedgwick County District Attorney's Office
Mr. Jim Crim, Oklahoma Used Motor Vehicle & Parts Commission

The meeting was called to order by Chairman Crowell and the first order of business was a hearing on SB-675 concerning drivers' license fees.

Mr. Harley T. Duncan, Secretary, Department of Revenue, testified in support of SB-675. (See Attachment 1) Secretary Duncan said this bill would increase driver license fees and change the procedure for establishing the expiration date for first-time licensees in Kansas. He said the increase in fees is necessary because at current levels they do not cover the cost of administering Drivers License Examining and Control Bureau.

Secretary Duncan reported FY-1985 receipts from all sources (approximately 75 percent of which are from driver licenses) totalled \$4.0 million. He said the actual 1985 expenditures in this Bureau amounted to \$5.1 million and \$5.3 million has been requested for FY-1987. He added that the driver licensing and control operations constitute a net drain on the State Highway Fund in excess of \$1.0 million annually.

Dr. James McHenry, Department of Social & Rehabilitation Services, gave favorable testimony concerning SB-675. (See Attachment 2) Dr. McHenry said passage of the bill with New Section 4, would make \$500,000 available for distribution by SRS/Alcohol and Drug Abuse Services to schools across the state for prevention and intervention programming.

Representative Moomaw asked what amount is currently being spent on this program. Dr. McHenry said in terms of programs directly to school districts, it is about \$225,000.

Representative George Teagarden, spoke in favor of SB-675. He said he supports the bill primarily because of the alcohol and drug abuse program fund created in it.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,
room 519-S, Statehouse, at 1:30 ~~am~~/p.m. on March 25, 19 86

Mrs. Connie Hubbell, Kansas State Board of Education, testified in support of SB-675. (See Attachment 3)

Mrs. Hubbell said the State Board of Education supports increasing state funds for the prevention of drug and alcohol abuse but believes that \$500,000 is too much money to spend when it appears teacher salary increases will be minimal. She said the Board recommends that the amount be changed to \$250,000 and sunset following a three-year pilot program. This should allow sufficient time to determine the effectiveness of the program.

Ms. Chris Graves, Associated Students of Kansas, appeared in support of SB-675. (See Attachment 4)

Ms. Jane Morrissey, Kansas Association of Prevention Professionals, testified in support of SB-675. (See Attachment 5)

Ms. Elizabeth Taylor, Kansas Association of Alcohol & Drug Program Directors, spoke in favor of SB-675.

Mr. Richard D. Schlegel, ABATE of Kansas, testified in favor of SB-675. (See Attachment 6)

Mr. Schlegel said they support SB-675 on the grounds that it will provide additional funds for motorcycle rider training programs.

The hearing on SB-675 was concluded.

The next order of business was a hearing on SB-624 concerning the disposal of impounded vehicles.

Senator Robert Frey, sponsor of SB-624, briefed the Committee on the contents of the bill.

Mrs. Mary Turkington, Kansas Motor Carriers Association, testified in support of SB-624. (See Attachment 7) She said passage of this legislation will be helpful in meeting some of the problems tow truck operators experience with wrecked or abandoned vehicles, and will help such tow truck operators to comply with the lawful disposition of such property.

The hearing on SB-624 ended.

The next order of business was a hearing on SB-470 concerning the licensure of certain dealers and brokers under the Vehicle Dealers and Manufacturers Licensing Act.

Mr. Jim Sullins, Kansas Motor Car Dealers Association, spoke in favor of SB-470. (See Attachment 8)

Mr. Sullins distributed a copy of a "Motor Vehicle Dealer Bond" used in Missouri, to Committee members. (See Attachment 9)

Representative Spaniol asked Secretary Harley Duncan how many times had a dealer's license been suspended or revoked. Secretary Duncan said the figure would probably be less than ten in the last three years.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,
room 519-S, Statehouse, at 1:30 ~~xxx~~/p.m. on March 25, 1986

Mr. David H. Moses, Sedgwick County District Attorney's Office, testified concerning SB-470. (See Attachment 10)

Mr. Moses said that in 1985 his office handled 128 consumer protection cases involving new or used auto dealers, which is approximately 16 percent of their total cases from 1985. He said 51 percent of the cases involved charges of misrepresentation while 16 percent involved failure to deliver title.


Mr. Moses said that SB-470 seems to give consumers added protection when dealing with car dealers, but requested the Committee consider the following questions before acting on this legislation: 1) Does SB-470 include consumer protection actions brought by the District Attorney or Attorney General, within the indemnity of bond provision? 2) Will the legislation substantially eliminate the smaller new or used car dealer, who being considered a high risk by bonding companies, cannot readily obtain a surety bond?

Mr. Jim Crim, Oklahoma Used Motor Vehicle and Parts Commission, State of Oklahoma, testified in support of SB-470. (See Attachment 11)

Mr. Crim told the Committee the bond program is used in the state of Oklahoma and it has been a help in "cleaning up" the industry in the state of Oklahoma.

The Chairman announced the hearing on SB-470 would be continued on another date.

The meeting was adjourned at 3:55 p.m.


Rex Crowell, Chairman

GUEST LIST

COMMITTEE: Transportation

DATE: 3-25-86

PLEASE PRINT

NAME	ADDRESS	COMPANY/ORGANIZATION
Bob Clister	Topeka	K.S.A.
Mary Lou McPhail	"	K.B.T.
Robert Norman		
Tracy McKenzie	Virgil, KS 66876	MHS
Jeff Bents	Madison Ks 66860	"
Tony Bustin	Madison Ks. 66860	"
Roger Welborn	Madison, KS 66860	USD #386
MARK WATTS	Madison, Ks. 66860	USD # 388
Katrinka Duwe	"	"
Louise Lamastus	Madison Ks. 66860	M.H.S
Todd Schedo	Madison, Ks, 66860	USD # 386
Dennis Murphy	Topeka	KDHE
DAVID MOSES	WICHITA	Sedgwick County D.A.
Elizabeth E. Taylor	Topeka	KADACA - KAADPD
Glenn Jamison	Madison Ks, 66860	MHS
Kyle Eden	Madison	MHS
Miss Haas	Madison	Madison High School
Gill Harris	Madison	Madison High
BRUCE GRAHAM	TOPEKA	KS Motor Carriers Assn
Tom Whitke	"	Ks Motor Carriers Assn
Jane Morrissey	Topeka	Kanwa Assoc. of Prof. Professionals
RON CALBERT	NEWTON	United Transportation Union
Harry Hinton	Topeka	SRS - NDHS
Tim McHenry	Topeka	SRS/APAS
Claine Brady Rogers	Topeka	SRS / A.O.S
Leis Pliskin	Madison	Madison HS

MEMORANDUM

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

FROM: Harley T. Duncan
Secretary of Revenue *H.T.D.*

RE: Senate Bill 675 - Driver License Fees

DATE: March 24, 1986

Thank you for the opportunity to appear before you today on Senate Bill 675 which would increase driver license fees and change the procedure for establishing the expiration date for first-time licensees in Kansas. The Department of Revenue supports enactment of this measure.

Driver License Fees

Senate Bill 675 would increase driver license fees as follows:

DRIVER LICENSE FEES

CLASS OF LICENSE	CURRENT	PROPOSED
LEARNER PERMITS	\$.50	\$2.00
CLASS A and B	\$10.00	\$15.00
CLASS C	\$6.00	\$10.00
CLASS D (MOTORCYCLE)	\$3.00	\$5.00

We propose to increase the fees because at the current levels they do not cover the cost of administering the Driver License Examining and Control Bureau. FY 1985 receipts from all sources (approximately 75 percent of which are from driver licenses) totalled \$4.0 million. Our actual 1985 expenditures in this Bureau amounted \$5.1 million and \$5.3 million has been requested for FY 1987. Thus, our driver licensing and control operations constitute a net drain on the State Highway Fund in excess of \$1.0 million annually.

We believe this activity should be self-supporting. Driver license fees have not increased since 1973, and we do not think the proposed fees are exorbitant for a 4-year driving privilege. Other fees generated in the Driver Licensing Bureau include

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Attachment 1*

reinstatement fees (\$25), driver record checks (\$1) and the photo fee associated with the license (\$1).

We estimate that the proposed increases will generate approximately \$2.1 million annually. Under current law, receipts from driver license fees are distributed as follows:

DISTRIBUTION OF FEES

CLASS OF LICENSE	SAFETY FUND	M-CYCLE FUND	HIGHWAY FUND
LEARNER PERMITS			100.0%
CLASS A and B	25.0%		75.0%
CLASS C	50.0%		50.0%
CLASS D	33.3%	33.3%	33.3%

Based on this distribution, approximately \$1.1 million of the increased fees will be deposited to the State Highway Fund, \$1.0 million to the State Safety Fund and \$40,000 to the Motorcycle Safety Fund. The increase will bring driver-related fees deposited to the Highway Fund or directly to the Motor Vehicle Operating Fund to about \$5.6-5.7 million, compared to our recommended \$5.3 million budget.

The increase will bring total receipts to the two safety funds to roughly \$2.5 million. Receipts in the safety funds are distributed to school districts for driver education and motorcycle education programs.

The Senate amendments to the bill would change the distribution of funds. It would provide that \$500,000 of the amount that would otherwise go to the Safety Funds would go to the School Alcohol and Drug Abuse Prevention Fund (a new fund) to be used by the Secretary of Social and Rehabilitation Services to make grants to school districts for alcohol and drug abuse prevention programs.

The Department of Revenue takes no position with respect to the Senate amendments. We do, however, feel very strongly that if the Committee disagrees with the proposed funding of alcohol and drug abuse prevention programs (or any similar programs) that the proposed increase in driver license fees should be approved so that our driver licensing and control activities can be self-supporting.

Expiration Date Changes

Under current law, the term of the driver license for persons being licensed for the first time in Kansas may extend from as little as six months to as long as 59 months depending on the year and month of the person's birth. (Costs of the license are prorated accordingly.) This system was established to even out the number of licenses coming up for renewal in any one year when the state moved from a two-year license to a four-year license in 1970.

While such a staggering mechanism was necessary during the transition from a two-year to a four-year license, it no longer serves any useful purpose. All new licensees (new drivers and new residents) should be randomly distributed by month and year so that no build-up of renewals should occur.

Most importantly, this staggering of terms and fees creates difficulty and confusion for the public and the Department. It takes extra time to serve the clients and makes the reconciliation of examiner and station accounts quite difficult and time consuming. It also does not make any sense to the driving public.

Senate Bill 675 would allow us to issue all first-time licenses for a four-year period. The license will still expire on the driver's birthday, and the initial period will be four years from the birthday nearest to the application date. That is if I have a March birthday and receive a license in May 1985, it will expire in March 1989. If I receive the license in December 1985, it will expire in March 1990. The fee for all first-time licenses will be the same--\$10 if the proposal outlined above is adopted.

Thank you for the opportunity to appear. I would be glad to answer any questions.

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
ALCOHOL AND DRUG ABUSE SERVICES

Senate Bill 675
Increase in Motor Vehicle Drivers' License Fees

I. Title

An act concerning motor vehicle driver's licenses; amending KSA 8-240 and KSA 1985 Supp. 8-247 and repealing the existing sections.

II. PURPOSE

The bill increases the fee for an application for a driver's license permit from \$.50 to \$2. Fee of class C driver's license is increased from \$6 to \$10, class D from \$3 to \$5, class A or B from \$10 to \$15.

III. BACKGROUND

Fee increase is requested by the Department of Revenue to cover costs of administering the drivers' license program.

The increase will generate additional funds for the state safety fund. Members of the Interdepartmental Coordinating Committee on Alcohol and Drug Abuse, including the Department of Revenue, suggested that a portion of the increase in funds for the state safety fund be allocated to a proposed school alcohol and drug abuse fund. The fund proposed in New Section 4 would provide funding to implement the intent of HB 2142 which was signed by Governor Carlin in 1985. The fund would provide for SRS/Alcohol and Drug Abuse Services to distribute monies for alcohol and drug abuse programming in Kansas schools.

IV. EFFECT OF PASSAGE

Passage of the bill with New Section 4 would make \$500,000 available for distribution by SRS/ADAS to schools across the state for prevention and intervention programming.

V. SRS RECOMMENDATION

Support the amendment of Kansas Statutes to increase the driver's license fees and create a school alcohol and drug abuse fund.

Robert C. Harder
Office of the Secretary
Social and Rehabilitation Services
296-3271
March 25, 1986

7198C

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Attach. 2



STATE OF KANSAS

JOHN CARLIN, GOVERNOR

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

ALCOHOL AND DRUG ABUSE SERVICES

ROBERT C. HARDER, SECRETARY

2700 WEST 6TH STREET
TOPEKA, KANSAS 66606
(913) 296-3925
KANS-A-N 561-3925

TESTIMONY FOR SB 675 INCREASE IN DRIVER'S LICENSE FEE
March 25, 1986

I am speaking today in favor of SB 675. My testimony is chiefly directed at New Section 4, creation of the school alcohol and drug abuse Prevention Fund.

In 1985, HB 2142 was signed into law by Governor John Carlin. The bill encourages school districts to implement alcohol and drug prevention and intervention programs, and provide for obtaining treatment services that may be needed for their students.

The Interdepartmental Coordinating Committee on Alcohol and Drug Abuse is a body composed of representatives from state agencies with an interest in alcohol and drug abuse. An educational subcommittee is drafting a report making recommendations for the development and implementation of comprehensive alcohol and drug prevention and intervention programs in Kansas schools as suggested by HB 2142. The drivers' license fee increase and proposed school alcohol and drug abuse prevention fund were suggested by representatives of the Department of Revenue and other members of the ICC subcommittee as a viable source of funds to assist prevention and intervention programs in schools.

SRS Alcohol and Drug Abuse Services wishes to expand the very positive relationships existing with the state Department of Education and school districts across the state. ADAS provides funding for school based prevention programs in Shawnee Mission USD 512, Salina Public Schools, and Cowley County Special Services Cooperative. In addition, six ADAS funded community based prevention programs provide services to schools. Wichita Public Schools receives funding to provide School Team Training to representatives of schools from across the state. Since 1983, 75 teams from 39 districts have received training. Forty-four teams will be trained in 1986. ADAS has provided technical assistance, information and materials to many more schools. We have assisted Students Against Driving Drunk (SADD) in expanding from 27 chapters in 1984 to over 100 at this time.

Expanded funding through the proposed school alcohol and drug abuse prevention fund should result in expanded private sector involvement in prevention and intervention programs in our schools. Ewing Kauffman of Marion Laboratories and the Kansas City Royals, funds Project STAR, a Kansas City area youth alcohol and drug prevention project, through the Ewing M. and Muriel I.

Kauffman Foundation. In a recent conversation with me, he indicated an interest in expanding Project STAR to other Kansas communities. Expansion would be contingent on assistance from other sources of funding. In this and other cases, the proposed school alcohol and drug abuse prevention fund would help leverage an expansion of private funding of prevention and intervention programs in our schools.

Numerous studies cite alcohol involvement in half of traffic accidents involving fatally injured teenage drivers. A November, 1985 National Highway Traffic Safety Administration report emphasized the need for comprehensive, well designed prevention programming.

To be successful in reducing alcohol and drug abuse, there must be comprehensive school-based prevention strategies. Comprehensive strategies include: 1) alcohol and drug information, 2) education in life skills, 3) alternatives to alcohol and drug use, and 4) health promotion.

A recently released study by Gene Smith, associate professor at Harvard Medical School, strongly suggests that substance abuse is not a random development and indicates that teenage alcohol, cigarette, and drug use can be predicted and prevented. Adolescents with personality traits including obedience, responsibility and self-confidence tend to shun drugs. Comprehensive prevention programming is designed to foster and enhance these positive traits.

We believe the proposed school alcohol and drug abuse prevention fund is a viable method of supporting the intent of HB 2142. A continuum of comprehensive alcohol and drug prevention, intervention, and treatment must be in place if we are to limit alcohol and drug abuse among the young people of our state.

Thank you for the opportunity to make this presentation.

LH:kh
7101C

CREATION OF A KANSAS SCHOOL ALCOHOL AND DRUG ABUSE
PREVENTION FUND

SB 675, New Section 4
March 13, 1986

1. Q. WHAT IS THE PROPOSED SCHOOL ALCOHOL AND DRUG PREVENTION FUND AND HOW WILL IT BE CREATED?

A. The School Alcohol and Drug Abuse Prevention Fund has been amended into SB 675 to provide funds to school districts for implementation of alcohol and drug abuse prevention and intervention programs. SRS Alcohol and Drug Abuse Services would administer the funds by inviting school districts to submit grant applications.

SB 675 proposes to raise the Drivers' License fees for all classes of Drivers' licenses. A portion of the money from the Drivers' License fees goes to the State Safety Fund. Schools use this money to fund driver education programs. It is estimated that increasing the drivers' license fees will generate an additional \$1.1 million for the State Safety Fund. SB 675 as passed by the Senate proposes that the School Alcohol and Drug Abuse Prevention Fund receive \$500,000, which would leave an estimated balance of \$600,000 as the increase for the State Safety Fund.

2. Q. WHY SHOULD DRIVERS' LICENSE FEES BE A SOURCE OF REVENUE FOR ALCOHOL AND DRUG ABUSE PREVENTION PROGRAMS FOR SCHOOLS?

A. Youth drinking and driving is a serious problem in Kansas. Kansas youth begin drinking by age 11. Prevention must start in elementary school.

All drivers have a fundamental stake in helping prevent the young drinking driver from being out on the road.

- Up to 60% of all fatal motor vehicle accidents involving young people are alcohol related. (NHTSA, "Facts About Teenage Drunk Driving")
- 8,000 teenagers and young adults are killed annually in drinking/driving accidents; 40,000 are injured (National Institute on Alcoholism and Alcohol Abuse).
- In 1984, Kansas drinking drivers under age 19 were 17.8% (1,594) of all drinking drivers involved in accidents; and they were 16.8% (3,161) of all alcohol related arrests (KBI, Crime in Kansas, 1984).

3. Q. HOW DO WE KNOW THIS MONEY IS NEEDED FOR SCHOOL ALCOHOL & DRUG PREVENTION PROGRAMS?

A. In a 1983 survey of Kansas schools conducted by the Kansas Department of Education and SRS/ADAS:

- only 15% of responding schools had K-12 alcohol and drug prevention education programs, only 28% of responding elementary schools had any type of prevention/education program.

There were 3,126 admissions of youth age 20 or under to Kansas alcohol and drug treatment programs in FY 1985. Admissions of youth have increased 17.3% since FY 83. SRS/ADAS projects at least 33,000 Kansas youth are problem drinkers in need of intervention or treatment services.

In the 1984 Gallup Poll on Teenage Alcohol Use, teenagers said that alcohol and drug use is the biggest problem of their generation. Meetings held with Kansas High School students in 1985 and 1986 confirmed this impression.

In 1984/85, prevention programs partially funded by SRS/ADAS were only able to reach 19% of the 405,347 Kansas students. Limited resources meant that prevention services could only be provided to 26 of the 105 Kansas counties.

4. Q. WHAT TYPES OF PREVENTION PROGRAMS WOULD BE CONSIDERED FOR FUNDING?

- A. 1. K-12 alcohol and drug prevention curriculum implementation and teacher training;
- 2. Student Assistance Programs to assist youth with alcohol and drug problems to obtain appropriate diagnosis and referral for services;
- 3. Training for youth to resist peer pressure. (SADD Chapter Development)
- 4. Programs for school populations with special needs, such as children of alcoholics;
- 5. Programs to increase parents' knowledge and skills to prevent alcohol and drug abuse by their children.

5. Q. WHAT FUNDS CURRENTLY SUPPORT ALCOHOL AND DRUG PREVENTION PROGRAMS IN KANSAS?

A. <u>SB 888</u> (local liquor tax)	<u>SRS/ADAS</u>	<u>Schools</u>	<u>Other</u>	<u>Total Allocated to Community and School Prevention</u>
\$425,060 (33%)	\$376,300 (29%)	\$222,289 (17%)	\$261,282 (21%)	\$1,284,931 (100%)
(One year funding reported in August, 1985 Funding Survey conducted by SRS/ADAS)				

6. Q. WHY IS SRS/ADAS THE APPROPRIATE GRANTING AGENCY?

A. SRS/ADAS is the designated Single State Agency for alcohol and drug abuse prevention, intervention and treatment and has been working with schools and communities since 1974. The agency has a granting procedure which includes regular site visits, quarterly fiscal and program reports, review of all grant applications by a Grant Review Committee, and alcohol and drug professional consultants assigned to each grant. Technical assistance is provided upon request.

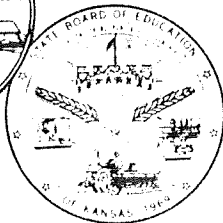
If SB 675 is enacted, SRS/ADAS will issue Requests for Proposals to school districts. Whenever possible, schools will be asked to contract with existing community based alcohol and drug programs. Grants would be accepted on an open competitive basis. Factors in determining awards will include criteria such as underserved areas of the state.

All moneys designated to the School Alcohol and Drug Prevention Fund will be used for grants. None of these funds will be utilized by SRS/ADAS for administrative purposes.

Kansas State Board of Education

Kansas State Education Building

120 East 10th Street Topeka, Kansas 66612-1103



Kay M. Groneman
District 1

Connie Hubbell
District 4

Bill Musick
District 6

Evelyn Whitcomb
District 8

Kathleen White
District 2

Sheila Frahm
District 5

Theodore R. Von Fange
District 7

Robert J. Clemons
District 9

Dale Louis Carey
District 3

March 25, 1986

Marion (Mick) Stevens
District 10

TO: House Transportation Committee
FROM: State Board of Education
SUBJECT: Senate Bill 675

My name is Connie Hubbell, Legislative Chairman of the State Board of Education. I appreciate the opportunity to appear before the Committee on behalf of the State Board.

Senate Bill 675 increases driver's and chauffeur's license fees which will generate an additional \$1,000,000 for the state safety. This bill proposes that \$500,000 of the state safety fund increase be used for new alcohol and drug abuse prevention programs. The State Board of Education supports increasing state funds for the prevention of drug and alcohol abuse but believes that \$500,000 is too much money to spend when it appears teacher salary increases will be minimal.

The State Board of Education recommends that the amount be changed to \$250,000 and sunset following a three-year pilot program. This will allow sufficient time to determine the effectiveness of the program.

The State Board of Education further recommends that the guidelines for determining the allocation of the \$250,000 be subject to their approval. The approval of these guidelines should improve the coordination of driver education and drug and alcohol abuse prevention programs.

In summary, the State Board of Education strongly endorses drug and alcohol abuse prevention but believes that taking approximately 50 percent of this new revenue is inappropriate at this time when teacher salary increases may be minimal.



ASSOCIATED STUDENTS OF KANSAS

Suite 608, Capitol Tower 400 W. 8th
Topeka, Kansas 66603
(913) 354-1394

STATEMENT BY
CHRIS GRAVES

ASSOCIATED STUDENTS OF KANSAS
(ASK)

BEFORE THE
HOUSE TRANSPORTATION COMMITTEE

ON

SB 675
An act concerning motor vehicle drivers' licenses

March 25, 1986

Good afternoon Mr. Chairman and members of the House Transportation Committee. My name is Chris Graves. I am the Executive Director of the Associated Students of Kansas, representing the student government associations at the seven public universities. It's a pleasure to be here today - I don't often get the opportunity to address this Committee and relate to you ASK concerns.

I am here today to express our support for the provisions in SB 675 which create the school alcohol and drug abuse prevention fund. Throughout the many hearings at which ASK presented testimony related to increasing the legal drinking age of 3.2 beer, we continually stressed that the way to curb alcohol and drug abuse by youth is by education and the changing of attitudes - not just the accessibility of these substances to our young people.

"The Comprehensive Study of Drug and Alcohol Use in Kansas; Present Patterns, Attitudes and Changes in Use" reported that 11 is the mean age of first use of alcohol in Kansas. Obviously then, education and prevention is needed before then, or before the 6th grade, so that problems are less likely to develop in the teen years and beyond.

Obviously parents have the responsibility for educating their children, but too many parents themselves are uneducated in this area and others just confuse their children by the mixed messages they give in their advice versus their behavior on a Friday or Saturday night.

The Alcohol and Drug Abuse Services division of the Department of Social and Rehabilitation Services has been legislatively mandated to provide services throughout Kansas which serve to prevent the abuse of alcohol and other drugs among all Kansans. For the past several years, youth prevention services have

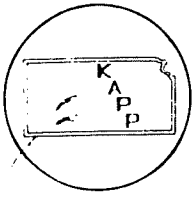
been identified as a top need in the state, yet a very small percentage of their budget (10% or less) can presently be allocated to prevention.

There are several different programs currently being developed for the schools and professionals from ADAS can more fully describe for you the details. I'm only familiar with a few - SADD, School Team Training, All Stars. From what I've heard, and from what I've seen from participants in those programs, real benefits are provided to the students, to the parents, and to the community.

Schools must also share in the responsibility of educating our young people about the use and abuse of alcohol and drugs. ASK has always supported the recommendations of the Governor's Committee on Drunk Driving for mandatory education in elementary, junior high and high schools. When possible, this instruction should be incorporated into existing curriculum. And should SB 675 be passed favorably with these provisions as now written, so much more can be done.

Thank you again for this chance to be here today. I would be happy to answer any questions.

Kansas Association of Prevention Professionals



Box 4052
Topeka, Kansas 66604-0052

March 25, 1986

TESTIMONY SUPPORTING SCHOOL PREVENTION

FUND - SB 675

The Kansas Association of Prevention Professionals has existed in the state for four years. Our purpose is to "unite human disciplines interested in the prevention of destructive, self-defeating behaviors and the promotion and support of healthy lifestyles." Our membership consists of professionals, volunteers, and citizens from the areas of alcohol and other drug abuse, mental health, unwanted teenage pregnancy, child abuse and other social/health issues.

KAPP believes it is cost effective to prevent or intervene in the progression of diseases such as alcoholism and other drug abuse. The cost of treatment for any disease naturally exceeds the resources it takes to prevent it. KAPP supports the need for quality treatment services, because we know when good prevention and intervention services are provided, students will surface who are already experiencing problems with alcohol and other drugs and treatment may be indicated.

KAPP proposes as a matter of public policy, Kansas should begin to examine the cost effectiveness of developing strong, well evaluated prevention and intervention services. The bill proposed to create and provide funding for a school alcohol and drug prevention fund to be used for school preven-

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Attach. 5

tion services is one more step forward in reaching youth before alcohol and drug problems are evident, to provide them with the refusal skills they need, the communication skills to resist peer pressure, and the alternative activities that provide alcohol and drug free functions for youth so the keg party isn't the only option at graduation and prom times.

One curriculum that is used in Kansas and was developed in Topeka is GET SET. Get Set costs \$8.00 per child. It starts in the elementary grades, when prevention must begin. Another strategy that is effective is School Team Training for the Prevention of Alcohol and Other Drug Abuse. Extensive evaluation is available on that program in the Wichita area, and statewide data is now being gathered.

We have learned through experience and research what is effective. Our next task is getting the strategies implemented throughout the state. Current services are fragmented and not available for thousands of Kansas students.

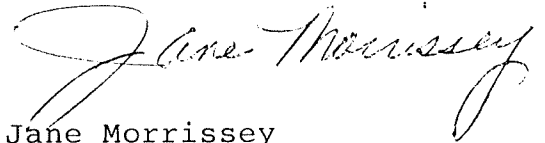
The development and implementation of the alcohol and drug continuum of care in Kansas is like assembling a jigsaw puzzle. Many of the treatment pieces (but not all) are in place. We now must begin to assemble the prevention and intervention pieces to complete the puzzle. I can assure you the picture will be worth seeing when that puzzle is complete, much suffering will be avoided, many lives will be saved.

It is true that our youth are our future. Your support of this bill to provide funds for school alcohol and drug pre-

vention will help secure that future.

Thank you.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jane Morrissey". The signature is written in dark ink and is positioned above the typed name.

Jane Morrissey
KAPP President Elect

Testimony Before The House Transportation Committee In Support of S.B. 675
by Richard D. Schlegel, Registered Lobbyist, A.B.A.T.E. of Kansas.

We support Senate Bill 675 on the grounds that, a number of years ago, our organization approached the legislature to request an increase in motorcycle license fees which were to be used for rider education programs. I have a hand-out which will explain this. Under Statute 8-267, we are guaranteed one-third of the moneys from "Class D" motorcycle licenses for rider education programs. Statute 8-272 specifies how this money is to be used and distributed.

It is my understanding, from talking to Mr. Gerald Christensen, Dept. of Education, that this increase in drivers license fees will generate approximately 36,000 to 38,000 dollars. Secretary Duncan has stated that the increase would be approximately 40,000 dollars.

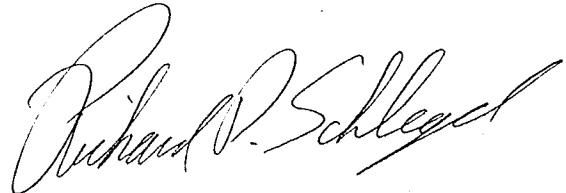
It is interesting to note that since the rider education programs have become available, there has been a marked reduction in the number of motorcycle accidents, especially among 'new riders'. Many accidents occur during the initial "learning" period by new riders. These rider education programs have, apparently, lead to a reduction in the number of these accidents.

It is also interesting to note that Kansas is the 4th safest state in the United States to ride a motorcycle in and we like to feel that this is in some way due to the fact that Kansas has one of the most aggressive rider education courses available in the U.S.

We did not ask for the increase in license fees. However, we do support the increase in that more money will go into the rider training programs and, hopefully, expand these programs.

There are a few minor problems in the program as it is set up now in that it is locked up within the Dept. of Education and it is hard to get these programs started in some areas. We have to rely on several factors such as the good will of a motorcycle dealer for the use of the motorcycles, the school board, things of that nature.

Hopefully, this increase in funding could be used by the Board of Education to purchase motorcycles for these programs or something in this nature.



H. Transp. 3/25/86

Attach. 6

2. Purpose of section; not intended to fix rights between insurance carrier and operator of insured vehicle. *Prickett v. Hawkeye-Security Insurance Company*, 282 F.2d 294, 298, 299.

8-271. Title of act. This act and the acts of which this act is amendatory shall be known and may be cited as the motor vehicle drivers' license act.

History: L. 1937, ch. 73, § 38; L. 1974, ch. 38, § 6; July 1.

DRIVER TRAINING

8-272. State safety fund and motorcycle safety fund; entitlements; certification of amounts; distribution; proration of insufficient appropriations; motorcycle safety courses and instructors. (a) Any school district conducting an approved course in driver training and any pupil attending a nonpublic school accredited by the state board of education conducting an approved course in driver training shall be entitled to participate in the state safety fund created by K.S.A. 8-267, and amendments thereto. In August of each year, the superintendent of each school district and the governing authority of each nonpublic school shall report to the state board of education the number of pupils who have been in attendance for a complete driver training course conducted by such school district or nonpublic school during the past school year. From the state safety fund in the state treasury, \$1,540,000 shall be distributed in the manner hereinafter provided to the respective school districts and nonpublic schools on order of the state board of education in the ratio that the number of pupils in each school district or nonpublic school in attendance for such complete courses bears to the total number of pupils in all such schools and nonpublic schools in attendance for such complete courses. The state board of education shall certify to the director of accounts and reports the amount due each school district and each pupil of a nonpublic school. The director of accounts and reports shall draw warrants on the state treasurer payable to the treasurer of each school district and to each pupil of a nonpublic school entitled to payment under this subsection upon vouchers approved by the state board and shall cause such warrants to be delivered to the respective school districts and nonpublic schools. If the amount appropriated in any year from the state safety fund shall be insufficient to

pay the full amount each school district and each pupil of a nonpublic school is entitled to receive under this subsection, then the entire amount appropriated for such year shall be prorated among all school districts and all pupils of nonpublic schools in proportion to the amount each school district and each pupil of a nonpublic school is entitled to receive. No moneys in the state safety fund shall be used for any purpose other than that specified in this subsection or for the support of driver improvement programs. The state board of education shall prescribe all forms necessary for reporting in connection with this act. The funds shall be distributed on or before November 1 each year.

(b) Any school district conducting an approved course in motorcycle safety as a part of an approved course in driver training and any pupil attending a nonpublic school accredited by the state board of education conducting an approved course in motorcycle safety as a part of an approved course in driver training shall be entitled to participate in the motorcycle safety fund created by K.S.A. 8-267, and amendments thereto. The state board of education may establish, by rules and regulations, standards for the conduct, operation and approval of courses in motorcycle safety and for the qualifications of instructors for such courses. Such standards shall not include the requirement that instructors be certificated by the state board of education. In August of each year, the superintendent of each school district and the governing authority of each nonpublic school shall report to the state board of education the number of pupils who have been in attendance for a complete course in motorcycle safety as a part of the driver training course conducted by such school district or nonpublic school during the past school year. From the motorcycle safety fund in the state treasury, \$210,000 shall be distributed in the manner hereinafter provided to the respective school districts and nonpublic schools on order of the state board of education in the ratio that the number of pupils in each school district or nonpublic school in attendance for such complete courses in motorcycle safety bears to the total number of pupils in all such schools and nonpublic schools in attendance for such complete courses. The state

board of education shall certify to the director of accounts and reports the amount due each school district and each pupil of a nonpublic school. The director of accounts and reports shall draw warrants on the state treasurer payable to the treasurer of each school district and to each pupil of a nonpublic school entitled to payment under this subsection upon vouchers approved by the state board and shall cause such warrants to be delivered to the respective school districts and nonpublic schools. If the amount appropriated in any year from the motorcycle safety fund shall be insufficient to pay the full amount each school district and each pupil of a nonpublic school is entitled to receive under this subsection, then the entire amount appropriated for such year shall be prorated among all school districts and all pupils of nonpublic schools in proportion to the amount each school district and each pupil of a nonpublic school is entitled to receive. No moneys in the motorcycle safety fund shall be used for any purpose other than that specified in this subsection or for the support of motorcycle driver improvement programs. The state board of education shall prescribe all forms necessary for reporting in connection with this act. The funds shall be distributed on or before November 1 each year.

History: L. 1959, ch. 312, § 1; L. 1969, ch. 310, § 1; L. 1971, ch. 20, § 1; L. 1974, ch. 40, § 1; L. 1977, ch. 39, § 1; L. 1978, ch. 35, § 1; L. 1979, ch. 39, § 1; L. 1982, ch. 42, § 3; July 1.

Cross References to Related Sections:

When license granted without examination, see 8-235b.

8-273. Drivers' training school license act; definitions. The following words and phrases when used in this act shall, unless the context otherwise requires, have the meanings respectively ascribed to them in this section:

(a) "Motor vehicle." Every vehicle which is self-propelled upon or by which any person or property is or may be transported or drawn upon a public highway except devices used exclusively upon stationary rails or tracks.

(b) "Drivers' training schools." Any person, partnership or corporation giving driving instruction to ten (10) or more persons

affected by guest statute. *Neilson v. Gambrel* 214 K. 339, 342, 520 P.2d 1194.

8-265. Employing persons to operate vehicle; proper class of license required. No person shall employ any person to operate a motor vehicle, if the person so employed is not then licensed to operate the appropriate class of motor vehicles as provided in this act.

History: L. 1937, ch. 73, § 32; L. 1949, ch. 104, § 36; L. 1975, ch. 36, § 29; Jan. 1, 1976.

8-266. Renting motor vehicle to another; record. (a) No person shall rent a motor vehicle to any other person unless the latter person is then duly licensed hereunder to operate such motor vehicle or, in the case of a nonresident, then duly licensed under the laws of the state of his or her residence, except a nonresident whose home state does not require that a driver be licensed.

(b) No person shall rent a motor vehicle to another until such person has inspected the license of the person to whom the vehicle is to be rented and compared and verified the signature thereon with the signature of such person written in his or her presence.

(c) Every person renting a motor vehicle to another shall keep a record of the registration number of the motor vehicle so rented, the name and address of the person to whom the vehicle is rented, the number of the license of said latter person and the date and place when and where said license was issued. Such record shall be open to inspection by any police officer or officer or employee of the division.

History: L. 1937, ch. 73, § 33; L. 1949, ch. 104, § 37; L. 1975, ch. 36, § 30; Jan. 1, 1976.

Research and Practice Aids:

Automobiles³⁸⁷.
C.J.S. Motor Vehicles §§ 760, 761.
Am. Jur. 2d Automobiles and Highway Traffic §§ 298 to 300, 579.

8-266a.

History: L. 1949, ch. 104, § 38; Repealed, L. 1959, ch. 49, § 35; July 1.

8-266b. Drivers' manual. The director of vehicles shall cause to be prepared and printed a suitable Kansas drivers' manual. It shall be the duty of the division to distribute the manual in such manner that each appli-

cant for a driver's license, upon request, may be presented with a copy thereof at the time of making application for a driver's license. The cost of such manuals shall be paid from the state highway fund.

History: L. 1949, ch. 104, § 39; L. 1975, ch. 36, § 31; Jan. 1, 1976.

8-267. Disposition of moneys; state safety fund, motorcycle safety fund and state highway fund. All moneys received under this act shall be paid over by the secretary of revenue to the state treasurer who shall credit 50% of all moneys so received from class C driver's licenses and 33⅓% of all moneys so received from class D driver's licenses and 25% of all moneys so received from class A or B driver's licenses to a special fund, which is hereby created and shall be known as the "state safety fund" and who shall credit 33⅓% of all moneys so received from class D driver's licenses to a special fund which is hereby created and shall be known as the "motorcycle safety fund." Moneys in the state safety fund and in the motorcycle safety fund shall be distributed to provide funds for driver training courses in the schools of Kansas and for the administration of this act, as the legislature shall provide. The state treasurer shall credit the balance of all moneys received under this act to the state highway fund.

History: L. 1937, ch. 73, § 34; L. 1939, ch. 84, § 2; L. 1949, ch. 104, § 40; L. 1955, ch. 53, § 1; L. 1959, ch. 49, § 32; L. 1961, ch. 53, § 1; L. 1963, ch. 54, § 1; L. 1972, ch. 342, § 43; L. 1975, ch. 36, § 32; L. 1982, ch. 42, § 2; July 1.

Cross References to Related Sections:

Distribution of funds for drivers training courses, see 8-272.

Research and Practice Aids:

Automobiles¹⁴¹.
C.J.S. Motor Vehicles § 158.

8-267a.

History: L. 1938, ch. 13, § 3; Repealed, L. 1949, ch. 104, § 53; July 1.

8-268. Penalties for violations. Any person who shall violate any provision of this act, unless otherwise specifically provided, shall be guilty of a misdemeanor, and on conviction, unless otherwise specifically provided, shall be fined not more than five hundred dollars (\$500) or be sentenced to

the county jail for a ninety (90) days or imprisonment.

History: L. 1937, ch. 104, § 42; L. 19

Research and Practice A
Automobiles³²⁶.

C.J.S. Motor Vehicles

CASE A

1. Violation of section license revocation unde
Herrick, 172 K. 65, 69,
2. Mentioned; alcohol obtained is admissible exercising statutory righ
3 K.A.2d 697, 600 P.2d

8-268a. Invalid parts of this act sh
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constitutional.

History: L. 194

Research and Practice
Statutes⁶⁴⁽²⁾.

C.J.S. Statutes §§ 96

8-269. Uniform
This act shall be
strued as to effectu
make uniform the
enact it.

History: L. 19

8-270. Effect
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shall not be con
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against liability
damages to prop
sion insurance ca

History: L. 19

Law Review and Bar
Discovery of autom

Joseph P. Jenkins, 14
"Automobile Liabil
Insured: A Serbian
K.L.R. 651, 652 (1970)

CASE

1. Cited in holding; not be canceled witho
v. Central National In
352.

STATEMENT

By The

KANSAS MOTOR CARRIERS ASSOCIATION

In support of S.B. 624 which clarifies
disposition of abandoned property.

Presented to the House Transportation
Committee, Rep. Rex Crowell, Chairman;
Statehouse, Topeka, Tuesday, March 25,
1986.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am Mary E. Turkington, Executive Director of the Kansas Motor Carriers Association with offices in Topeka. I appear here this afternoon to support Senate Bill 624 which addresses some of the major problems our tow truck or wrecker operators have experienced in handling abandoned vehicles.

We appreciate Senator Robert Frey's assistance in introducing Senate Bill 624.

Our tow truck members have indicated that assistance is specifically needed in lawfully disposing of abandoned, wrecked cars which no one claims.

H. Transp. 3/25/86

Attach. 7

The first portion of the bill deals with vehicles abandoned on a highway or other property open to use by the public.

The proposed bill further clarifies a vehicle abandoned on real property - other than public property or property open to use by the public.

Section 2 of the proposed bill more specifically prescribes the notice which must be given and the time frame which controls the sale of such property at public auction.

We believe these revisions will be helpful in meeting some of the problems our tow truck operators experience with wrecked or abandoned vehicles and will help such tow truck operators to comply with the lawful disposition of such property.

We will be pleased to attempt to answer any questions the committee may have. We support the provisions of Senate Bill 624 and urge you to recommend the bill for passage.

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Statement Before the
HOUSE COMMITTEE ON TRANSPORTATION

by the
KANSAS MOTOR CAR DEALERS ASSOCIATION

Tuesday, March 25, 1986

RE: SENATE BILL 470

Mr. Chairman and Members of the Committee. I am Jim Sullins, Executive Vice President of the 392 member Kansas Motor Car Dealers Association, the state trade association representing the franchised new car and new truck dealers of Kansas. I come before you today in support of Senate Bill 470 which deals with requiring vehicle dealers to post a \$25,000 surety bond with the state as well as placing certain restrictions on brokering of vehicles in Kansas.

The bill, as introduced by Senator Yost of Wichita, originally only spoke to the bonding of dealers in the form of a \$25,000 surety bond prior to licensing. This change to K.S.A. 1985 Supp. 8-2404 is found on line 353 through 363 on page 10 of the bill. Briefly, the language requires that every "applicant or licensee" applying to be a new or used vehicle dealer furnish and maintain a \$25,000 bond conditioned on the applicant or licensee complying with the provisions of the statutes applicable to the licensee. The bond would be in a form approved by the Director of Vehicles.

Currently, at least 26 states require a dealer be bonded, ranging from \$5,000 to as high as \$200,000 in Hawaii. The amounts of the bonds vary, but for the most part, \$20,000-\$25,000 is the norm. Additionally, at least one state only requires that used vehicle dealers be bonded.

H. Transp. 3/25/86
Attach. 8

Current Kansas law does allow the Director of Vehicles to require a bond if the Director has reasonable cause to doubt the financial responsibility or compliance by the applicant or licensee. The Director can require anywhere from a \$5,000 to \$20,000 bond. Last session, during the discussions on SB 321, this section was addressed, and rather than requiring a bond of all dealers, this Committee raised the Director's discretionary bond from \$15,000 to a maximum of \$20,000. Even with this change, to the best of our knowledge, the Director of Vehicles has yet to require a bond of any applicant or licensee, either before the change last session or after. In our opinion, the discretionary bond does not work as the Director is hesitant to use it. We feel that an applicant who is required to have a bond could claim discrimination by the Division of Vehicles against him simply because he was required to have a bond and someone else wasn't. Also, who is the Director to say that someone doesn't have the financial responsibility or might violate the dealer licensing act. We feel these are the main reasons why bonds have never been required even though the authority is there.

Requiring a \$25,000 bond is simply a consumer protection measure. If a consumer purchases a vehicle which later is found not to be what it was represented as, the consumer has recourse against the dealer and the bond. For the most part, the bond would only come into play when the dealer who originally sold the vehicle is no longer in business either by closing his dealership or by bankruptcy. For example, let's say that a vehicle had previously been damaged either by a major accident or in a flood, and this fact was not disclosed. Also assume that the dealer who sold the vehicle is no longer in business. If the consumer discovers the faults or has serious problems with the vehicle and the dealer is out of business, under the current statutes, the consumer has absolutely no protection. He is left holding a vehicle with serious problems and has

no way to recover his damages as the dealer is no longer in business or has nothing to recover against. With the bond having been in force at the time the sale was made, the consumer would have a method whereby he could recover at least part, if not all, of the damages.

The question you have before you is a policy decision. Who are you most concerned in protecting; the consumers of the state, or the dealers who will have to spend a little more money to purchase the bond thereby showing that they have some financial reliability?

The other major question this bill addresses deals with a certain class of dealers called "brokers" and the brokering of vehicles in Kansas. To give you a little background, brokering is another word for consignment selling. Under Kansas law, a dealer may not have any vehicle on his lot unless that dealer holds clear, free title to that vehicle. In other words, the dealer must own everything he is offering for sale. Several years ago, a situation developed where certain individuals were offering to sell another individual's vehicle for them, basically on consignment. For a fee or commission, an individual would advertise and offer for sale another person's car. Kansas statutes were mute on this subject, although the individual was acting, for the most part, like a used vehicle dealer. After attempts to control this through administrative procedures, it was decided that the statutes should be amended to define and control these individuals. "Brokers" were then established in the statutes, and were licensed by the state. Other states had similar situations occurring and handled it either by allowing brokers or specifically prohibiting brokers.

While brokering does serve a purpose by giving individuals an avenue

for disposing of their personal vehicles, it also opens up an opportunity for disposing of vehicles which have had their odometers tampered or which have been damaged. Vehicles are being brought in from other states and being sold to Kansas consumers by brokers. These vehicles have been flood damaged, wrecked, or otherwise materially changed, and the Kansas consumers are not being told.

Brokers are actually selling vehicles directly to consumers. The brokers are demonstrating the vehicles, making representations concerning the condition of the vehicles, and doing everything that used vehicle dealers do when they sell vehicles with two notable exceptions. First, brokers do not collect sales tax. Since they never hold title to the vehicle it is technically not a retail sales by the broker. Instead it is an occasional and isolated sale, and the purchaser pays sales tax at the county treasurer's office. Secondly, since the broker is not the retail seller of the vehicle, he does not put an inventory tax stamp on the title for the same reason they don't collect sales tax--they don't own the vehicle. Also, up until a couple of weeks ago, there was some question as to whether the broker had any liability under the Kansas Consumer Protection Act and the implied warranty sections of the U.C.C.

At KMCD's request, through Representative Knopp, the Attorney General issued Opinion # 86-25 which states that a broker is a "supplier" under the Kansas Consumer Protection Act and does have implied warranty liability under the U.C.C. With this opinion, one area is cleared up, but we feel that there is still a major problem with the brokering of vehicles, and SB 470 supplies the solution.

In line 418 through line 427, you will find language added by the

Senate Committee on Transportation and Utilities which eliminates certain types of brokers immediately, and phases out the rest over a period of time through attrition. Subparagraph (q) simply prohibits the brokering of new and used recreational vehicles, and a definition of recreational vehicle has been added beginning on line 235. This was done at the request of a Senator who is having problems with brokers of recreational vehicles in his district. Subparagraph (r) prohibits the brokering of new motor vehicles. For several years, KMCDA has believed that other language in the statutes prohibited brokering of new vehicles, but some time ago, the Department of Revenue issued an opinion which indicates that the statute doesn't say what we think it does. Therefore, brokering of new vehicles is legal, and that is a dangerous attack on the franchises which new vehicle dealers hold.

Finally, subparagraph (s) grandfathers in any broker who holds a license on or before December 31, 1986, and prohibits the issuance of any new broker's license on or after January 1, 1987. The Senate and the industry was very concerned about putting a going business out of business. It is not the intent of the industry to take anyone's livelihood away from them. Therefore, it was agreed that the grandfather clause would be added which would let attrition phase out brokers over a period of time. To take it one step further, the Senate added language which allows for the transfer of the broker's license one time from the original broker to a new broker. There are several brokers who have made substantial investment in a franchised broker operation. To protect these brokers from losing their investments, the Senate allowed for the transfer from the current broker to a subsequent broker, but the subsequent broker will not be allowed to sell the business to another person. It is a one time transfer.

Finally, new section 3 was added at the request of the Department of Revenue and adds criminal penalties to the dealer licensing law. For years, these penalties existed in the statute, and for some reason they were eliminated a few years back. No one around today seems to remember why they were eliminated, and we have no objection to adding them back in if the Department feels them necessary.

Mr. Chairman and Members of the Committee, basically this whole bill revolves around consumer protection. KMCD is dedicated to trying to clean up the motor vehicle industry in Kansas, and some of this can only be accomplished with your help. Last year, great steps forward were taken with the d-tag reform which was incorporated in SB 321. This year, SB 470 is the next step forward.

Our best information is that a \$25,000 bond will cost around \$250 per year, and at least one insurance company says that new vehicle dealers will be able to acquire the bond for \$125. The bonding companies tell us that their only requirements are an indemnity agreement signed by the applicant and a financial statement. With that, they will bond virtually any dealer. I would say that it is possible that there may be a very few dealers whom the insurance companies might closely examine before issuing a bond. However, if an insurance company isn't willing to bond someone on such a small amount as \$25,000, do you really want that individual selling vehicles to the consumers of Kansas?

Concerning brokering, several states in recent years have simply outlawed brokering, two of the most recent being Oklahoma and Texas. They realized that brokers served no more purpose than used vehicle dealers, and saw it unnecessary to have this questionable class of dealer.

If someone wants to be in the vehicle business, they should have to do all of the same things that a used vehicle dealer does, and stand behind their product in the same way. Therefore, we should eliminate this class of dealer called "broker."

The policy decision is yours.

Mr. Chairman and Members of the Committee, I appreciate your attention and allowing me the time to present the views of the franchised dealers. If you have any questions, I would be happy to respond, and I would urge you to report SB 470 favorable for passage.

* * * * *

MOTOR VEHICLE DEALER BOND — MISSOURI

KNOW ALL MEN BY THESE PRESENTS, that we

as Principal, and UNIVERSAL UNDERWRITERS INSURANCE COMPANY, a corporation organized and existing under the laws of the State of Missouri, having its principal place of business at Kansas City, Missouri, as Surety, are held and firmly bound unto the State of Missouri, in the penal sum of Twenty-five Thousand Dollars (\$25,000.00) for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION of the above obligation is such that WHEREAS the Principal has applied for the issuance of a Motor Vehicle Dealer's license and presents this bond in accordance with said statute.

NOW THEREFORE, if the aforesaid Principal shall faithfully comply with the provisions of the State of Missouri statutes applicable to new motor vehicle franchised dealers and to used motor vehicle dealers, and shall indemnify any person dealing or transacting business with the principal for any loss sustained by any person by reason of the acts of principal provided such acts of Principal constitute grounds for suspension or revocation of Principal's registration, then this obligation to be void; otherwise, to remain in full force and effect.

The aggregate liability of the Surety of all persons shall, in no event, exceed the amount of this bond during any one license year.

This bond shall be effective _____, 19____ and shall expire _____, 19____.

This bond may be cancelled by the Surety giving written notice to the Principal and Missouri Director of Revenue; stating the date of cancellation, which in no event shall be less than 30 days after receipt of said notice by the Director of Revenue; however, the Surety shall remain liable for any and all acts of the Principal covered by this bond up to the date of cancellation.

Dated this _____ day of _____, 19____.

WITNESS TO PRINCIPAL

(Principal) (Seal)

(Title)

WITNESS TO SURETY

UNIVERSAL UNDERWRITERS INSURANCE CO.
(Surety) (Seal)

BY _____
Attorney-In-Fact

*H. Transp. 3/25/86
Attach. 9*

SEDGWICK COUNTY DISTRICT ATTORNEY
18th Judicial District

Sedgwick County Courthouse
Annex — First Floor
535 North Main
Wichita, Kansas 67203

CLARK V. OWENS
District Attorney

Henry H. Blase
Chief Deputy

Consumer Fraud and
Economic Crime Division
(316) 268-7921

TESTIMONY

TO: HOUSE TRANSPORTATION COMMITTEE

FROM: DAVID H. MOSES, DIRECTOR, CONSUMER FRAUD & ECONOMIC
CRIME DIVISION OF THE SEDGWICK COUNTY DISTRICT
ATTORNEY'S OFFICE

RE: SENATE BILL 470 - AN ACT AMENDING THE VEHICLE DEALERS'
AND MANUFACTURERS' LICENSING ACT

GIVEN: MARCH 25, 1986 - STATE CAPITOL, TOPEKA, KANSAS

As Director of the Consumer Fraud Division of the Sedgwick County District Attorney's office, I would like to offer comment on Senate Bill 470, as it pertains to the Kansas auto dealers.

In 1985 our office handled 128 consumer protection cases involving new or used auto dealers. This is approximately sixteen percent of our total cases from 1985. Fifty-one percent of these cases involved charges of misrepresentation, while sixteen percent involve failure to deliver title. Clearly, there is a significant problem which needs to be addressed.

Although Senate Bill 470 seems to offer some protection to consumers, there are a few questions we would like the committee to consider:

1. Does Senate Bill 470 include consumer protection actions brought by the District Attorney or Attorney General, within the indemnity of bond provision? The District Attorney or Attorney General should then be considered an "aggrieved party". As an "aggrieved party", the District Attorney or Attorney General brings action and seeks restitution in these judgements on behalf of Kansas consumers. Therefore, the payment of the judgement when covered by the surety bond should be applicable to the District Attorney or Attorney General, as well.

2. Will the legislation substantially eliminate the smaller new or used car dealer, who being considered a high risk by bonding companies, cannot readily obtain a surety bond? The majority

H. Transp. 3/25/86

Attach. 10

HOUSE TRANSPORTATION COMMITTEE

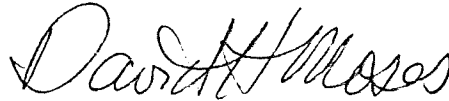
Page two

of car dealers are small, and although some of the smaller dealers are repeatedly involved in consumer protection cases in our office, the majority of small car dealers appear to be reputable.

With the elimination of smaller new and used car dealers, will this conceivably eliminate competition, thereby potentially increasing the price to the consumer?

In conclusion, Senate Bill 470 will give the consumers added protection when dealing with car dealers; however, we ask that the committee consider the aforementioned questions before acting on this legislation.

Respectfully submitted,



DAVID H. MOSES
Assistant District Attorney
Director, Consumer Fraud &
Economic Crime Division

SAMPLE CLAIMS - OKLAHOMA MOTOR VEHICLE DEALER BONDS

Claim S-31,934 - Don Richards DBA Discount Auto Sales, Oklahoma City, Oklahoma - Claimant obtained a judgment against the principal prior to contacting the surety. The judgment was for \$395 actual damages and over \$4,000 in punitive damages. This claim was brought because of fraud and misrepresentation as to the mileage of a vehicle the principal sold to the claimant. A settlement agreement was reached by the surety and payment of a \$1,000 loss was made.

Claim S-32,048 - Lonnie Edwards Used Cars, Vinita, Oklahoma - Principal continued to write checks for the purchase of vehicles at a car auction, after his checking account had been closed by the bank. The surety paid a loss of \$7,500 in order to settle the claim for the nonsufficient fund checks which had been written. The principal subsequently filed bankruptcy and we are currently unable to collect any reimbursement from him.

Claim S-35,697 - All American Cars, Norman, Oklahoma - Four claims were filed against this principal's bond. The first involved an individual who purchased a vehicle from our principal and subsequently found out that the vehicle was subject to a previous lien. The second claim is one being made by the bank holding this lien. The third claim involves a nonsufficient fund check our principal used to purchase a vehicle and the fourth involves a car sold by him which was later found out to have been stolen. The surety has interpleaded the entire bond to allow the court to decide the appropriate disbursement of the bond penalty. The principal has filed bankruptcy and reimbursement possibilities are not good.

Claim S-38,638 - Kenneth Burns, Durant, Oklahoma - There were three claims filed against this principal each involving nonsufficient fund checks he had used to purchase vehicles. The losses totaled \$12,310 for which the surety made pro rata payments surrendering their entire \$10,000 bond. The surety was last informed that the principal was in jail due to felony charges. He apparently proceeded to escape from jail and is currently being held in Texas awaiting trial for crimes he committed while on the run. Reimbursement possibilities look bleak.

Claim S-41,239 - Neil F. Osborne DBA Belt Motors, Oklahoma City, Oklahoma - Claimant alleged that the principal rolled back the odometer on the vehicle he purchased. The amount of the demand was \$650 for which the surety paid a settlement of \$300. The surety has not yet been able to collect any form of reimbursement from the principal.

*H. Transp. 3/25/86
Attach. 11*

Claim S-42,300 - Johnnie Dukes Used Cars, Warner, Oklahoma - A dealer purchased a pickup from principal for \$5,900. He then resold the vehicle to another dealer for \$6,250. It was then discovered that the vehicle was stolen sometime prior to his purchasing it from the principal. The dealer has refunded the subsequent purchaser and is now looking to us to refund the \$5,900. The surety surrendered this amount in settlement and has been notified by the local police that the principal no longer lives in the area.

Claim S-42,344 - John R. Miller DBA John's Auto Mart, Oklahoma City, Oklahoma - Principal purchased six vehicles from an auto auction in August of 1984. The total of the checks came to \$16,925. The claimant was unable to collect on the checks and the surety surrendered the entire \$10,000 bond in settlement. Reimbursement possibilities look bleak as the principal has skipped town.

Claim S-44,066 - Mike Bullock DBA Mike's Quality Cars, Tulsa, Oklahoma - Claimant obtained a default judgment against the principal in the amount of \$650 for a vehicle he had purchased and never received the title for. The principal has since filed bankruptcy and the surety was responsible for paying the loss.

Claim S-44,893 - William Teany, Midwest City, Oklahoma - The claimant purchased a Datsun pickup from our principal for \$1,100. He subsequently resold it and the vehicle was then determined to have been stolen. A judgment was obtained for \$1,128 on which the surety made payment. The surety did collect reimbursement from the principal.

Claim S-45,400 - Roy Jones DBA May Avenue Auto Sales, Oklahoma City, Oklahoma - Plaintiff sold and delivered cars amounting to \$85,200 in value to the principal. When he attempted to send the drafts through the bank along with the titles to be forwarded to the defendant, the drafts and titles to the vehicles were returned marked nonsufficient funds. Apparently, the principal was able to obtain false titles to the vehicles and proceeded to sell them. The surety surrendered the entire \$10,000 bond in settlement and has been unable to locate the principal to pursue reimbursement.

Claim S-45,976 - Dan Bush DBA Uncle Sam's Auto Sales, Lawton, Oklahoma - The claimant purchased a 1978 Chevy Van from the principal. He did not receive title and was claiming monetary damages of \$5,134.48. However, the surety was able to locate the holder of the title who was willing to accept \$2,825 in order to release the title to the new owner. This amount was paid by the surety in settling this claim. Surety will be pursuing reimbursement from the principal.