

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Allen at
Chairperson

10:00 a.m./~~p.m.~~ on February 13, 1986 in room 423-S of the Capitol.

All members were present ~~except~~:

Committee staff present:

Fred Carmen, Revisor's Office
Raney Gilliland, Research Department

Conferees appearing before the committee:

Senator Allen called the Committee to order and called the members' attention to SB 459. The Chairman then asked Senator Montgomery to discuss the bill.

Senator Montgomery explained the bill (attachment 1) was written to allow a farmer, who lives on a farm and is a person who derives 50% of his income from operating the farm be allowed to call his residence on the farm his place of business as long as he has a business phone with a business listing in the phone book. Under this definition a farmer would be allowed only to have a business of selling vehicles and equipment not required to have vehicle registration to travel on a highway.

The Chairman asked Jim Sullins, who was in the audience and who represents the Kansas Motor Car Dealers Association, to comment on the bill.

Mr. Sullins stated his organization had no objection to the bill.

Committee discussion followed concerning business license requirements and the types of vehicles or equipment that could be sold under the provisions of this bill. It was suggested that with the 50% gross income requirement in line 0212 may eliminate some farmers.

Vice-Chairman Senator Montgomery declared the hearing closed on SB 459. He then turned the Committees' attention to SB 467 for action.

Committee discussion covered parts of the bill concerning whether the \$150,000 in line 41 should be increased, whether the rental provision was worded clearly enough, whether the bill would help a great number of farmers or not. Senator Norvell made a motion the Committee recommend SB 467 favorably for passage. Senator Doyen seconded the motion. Motion carried.

The Chairman called for action on SB 546. The Chairman explained amendments suggested by Joan Finney for the bill. (Attachment 2). Senator Gannon moved the amendments be adopted. Senator Montgomery seconded the motion. Motion carried. Discussion continued concerning the definition of 'home quarter'. Senator Thiessen moved the definition of 'home quarter' be changed to read so that if a public road goes through the 160 acres making it two separate pieces of land that 'home quarter' would also be included in the provisions of SB 546. Senator Gordon seconded the motion. Motion carried. Discussion continued concerning the fiscal note for the bill, and in case a farmer does not repay the

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Agriculture,
room 423-S, Statehouse, at 10:00 a.m./~~pm~~ on February 13, 19 86

state and goes bankrupt; then the state would be repaid from the foreclosure sales. Who would be eligible was discussed and the feeling that a financial institution would not go along with the provisions of this bill. The statement was made that even though the bill would not help a big number of farmers that helping a few made it worthwhile.

The Chairman adjourned the meeting at 11:00 a.m.

Attachments: No. 1 - Printed copy SB 459.
No. 2 - Suggested amendments

SENATE BILL No. 459

By Senators Montgomery and Allen

1-23

0017 AN ACT concerning vehicles; certain dealers' places of busi-
0018 ness; amending K.S.A. 1985 Supp. 8-2401 and repealing the
0019 existing section.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. K.S.A. 1985 Supp. 8-2401 is hereby amended to
0022 read as follows: 8-2401. As used in this act, the following words
0023 and phrases shall have the meanings:

0024 (a) "Vehicle dealer" means any person who: (1) For com-
0025 mission, money or other thing of value is engaged in the business
0026 of buying, selling or offering or attempting to negotiate a sale of
0027 an interest in vehicles; or (2) for commission, money or other
0028 thing of value is engaged in the business of buying, selling or
0029 offering or attempting to negotiate a sale of an interest in vehi-
0030 cles for other persons as an agent, middleman or negotiator; or (3)
0031 for commission, money or other thing of value is engaged in the
0032 business of bringing buyers and sellers of vehicles together; or
0033 (4) for commission, money or other thing of value is engaged in
0034 the business of buying, selling or offering or attempting to
0035 negotiate a sale of an interest in motor vehicles as an auction
0036 motor vehicle dealer as defined in (jj); but does not include: (i)
0037 Receivers, trustees, administrators, executors, guardians, or
0038 other persons appointed by or acting under the judgment or
0039 order of any court, or any bank, trustee or lending company or
0040 institution which is subject to state or federal regulations as such,
0041 with regard to its disposition of repossessed vehicles; or (ii)
0042 public officers while performing their official duties; or (iii)
0043 employees of persons enumerated in (i) and (ii), when engaged
0044 in the specific performance of their duties as such employees.
0045 (b) "New vehicle dealer" means any vehicle dealer who is a

2/13/86 Sen. Ag.
attachment 1

0046 party to an agreement, with a first or second stage manufacturer
0047 or distributor, which agreement authorizes the vehicle dealer to
0048 sell, exchange or transfer new motor vehicles, trucks, motorcy-
0049 cles, mobile homes, or trailers or parts and accessories made or
0050 sold by such first or second stage manufacturer or distributor and
0051 obligates the vehicle dealer to fulfill the warranty commitments
0052 of such first or second stage manufacturer or distributor.

0053 (c) "Used vehicle dealer" means any person actively en-
0054 gaged in the business of buying, selling or exchanging used
0055 vehicles.

0056 (d) "Vehicle salesman" means any person who is employed
0057 as a salesman by a vehicle dealer to sell vehicles.

0058 (e) "Mobile home dealer" means any person who: (1) For
0059 commission, money or other thing of value is engaged in the
0060 business of buying, selling or offering or attempting to negotiate
0061 a sale of an interest in mobile homes; or (2) for commission,
0062 money or other thing of value is engaged in the business of
0063 buying, selling or offering or attempting to negotiate a sale of an
0064 interest in mobile homes for other persons as an agent, middle-
0065 man or negotiator; or (3) for commission, money or other thing of
0066 value is engaged in the business of bringing buyers and sellers of
0067 mobile homes together.

0068 (f) "New mobile home dealer" means any mobile home
0069 dealer who is a party to a mobile home sales agreement, with a
0070 mobile home manufacturer, which mobile home sales agreement
0071 authorizes the mobile home dealer to sell, exchange or transfer
0072 new mobile homes or parts and accessories made or sold by such
0073 mobile home manufacturer and obligates the mobile home
0074 dealer to fulfill the warranty commitments of such mobile home
0075 manufacturer.

0076 (g) "Used mobile home dealer" means any person actively
0077 engaged in the business of buying, selling or exchanging used
0078 mobile homes.

0079 (h) "Mobile home salesman" means any person who is em-
0080 ployed as a salesman by a mobile home dealer to sell mobile
0081 homes.

0082 (i) "Board" means the vehicle dealer review board created

0083 by this act.

0084 (j) "Director" means the director of vehicles, or a designee of
0085 the director.

0086 (k) "Division" means the division of vehicles of the depart-
0087 ment of revenue.

0088 (l) "Vehicle" means every device in, upon or by which any
0089 person or property is or may be transported or drawn upon a
0090 public highway, and is required to be registered under the
0091 provisions of article 1 of chapter 8 of Kansas Statutes Annotated
0092 ~~and amendments thereto~~ except that such term shall not include
0093 motorized bicycles or mobile homes.

0094 (m) "Manufactured home" means a structure, transportable
0095 in one or more sections which in the traveling mode, is eight
0096 body feet or more in width or 40 body feet or more in length, or
0097 when erected on site, is 320 or more square feet and which is
0098 built on a permanent chassis, and designed to be used as a
0099 dwelling with or without permanent foundation, when con-
0100 nected to the required utilities, and includes the plumbing,
0101 heating, air-conditioning and electrical systems contained
0102 therein. When the term mobile home is used in article 24 of
0103 chapter 8 of Kansas Statutes Annotated it shall be synonymous
0104 with and means the same as manufactured home.

0105 (n) "Motor vehicle" means any vehicle other than a mo-
0106 torized bicycle, which is self-propelled and is required to be
0107 registered under the provisions of article 1 of chapter 8 of Kansas
0108 Statutes Annotated ~~and amendments thereto~~.

0109 (o) "Licensor" means the director or division or both.

0110 (p) "First stage manufacturer" means any person who man-
0111 ufactures, assembles and sells new vehicles to new vehicle
0112 dealers for resale in this state.

0113 (q) "Second stage manufacturer" means any person who as-
0114 sembles, installs or permanently affixes body, cab or special unit
0115 equipment to a chassis supplied by a first stage manufacturer,
0116 distributor or other supplier and sells the resulting new vehicles
0117 to new vehicle dealers for resale in this state.

0118 (r) "Mobile home manufacturer" means any person who
0119 manufactures, assembles and sells new mobile homes to new

0120 mobile home dealers for resale in this state.

0121 (s) "First stage converter" means any person who is engaged
0122 in the business of affixing to a chassis supplied by a first stage
0123 manufacturer, distributor or other supplier, specially constructed
0124 body units to result in motor vehicles used as, but not limited to,
0125 buses, wreckers, cement trucks and trash compactors.

0126 (t) "Second stage converter" means any person who is en-
0127 gaged in the business of adding to, subtracting from or modifying
0128 previously assembled or manufactured vehicles and sells the
0129 resulting converted vehicles at retail or wholesale.

0130 (u) "Distributor" means any person who sells or distributes
0131 for resale new vehicles to new vehicle dealers in this state or
0132 who maintains distributor representatives in this state.

0133 (v) "Wholesaler" means any person who purchases vehicles
0134 for the purpose of resale to a vehicle dealer.

0135 (w) "Factory branch" means any branch office maintained in
0136 this state by a first or second stage manufacturer for the sale of
0137 new vehicles to distributors, or for the sale of new vehicles to
0138 new vehicle dealers, or for directing or supervising, in whole or
0139 in part, its representatives in this state.

0140 (x) "Mobile home branch" means any branch office main-
0141 tained in this state by a mobile home manufacturer for the sale of
0142 new mobile homes to new mobile home dealers, or for directing
0143 or supervising, in whole or in part, its representatives in this
0144 state.

0145 (y) "Distributor branch" means any branch office similar to
0146 (w) maintained by a distributor for the same purposes as a factory
0147 branch.

0148 (z) "Factory representative" means a representative em-
0149 ployed by a first or second stage manufacturer, factory branch,
0150 mobile home manufacturer or mobile home branch for the pur-
0151 pose of making or promoting the sale of its new vehicles or new
0152 mobile homes to new vehicle dealers or new mobile home
0153 dealers, or for supervising or contacting its new vehicle dealers
0154 or mobile home dealers or prospective new vehicle dealers or
0155 mobile home dealers with respect to the promotion and sale of
0156 such vehicles or mobile homes and parts or accessories for the

0157 same.

0158 (aa) "Distributor representative" means any representative
0159 similar to (z) employed by a distributor or distributor branch for
0160 the same purpose as a factory representative.

0161 (bb) "Person" means any natural person, partnership, firm,
0162 corporation or association.

0163 (cc) "New motor vehicle" means any motor vehicle which
0164 has never been titled or registered and has not been substantially
0165 driven or operated.

0166 (dd) "Franchise agreement" means any contract or franchise
0167 or any other terminology, except mobile home sales agreement,
0168 used to describe the contractual relationship between first or
0169 second stage manufacturers, distributors and vehicle dealers, by
0170 which:

0171 (1) A right is granted one party to engage in the business of
0172 offering, selling or otherwise distributing goods or services
0173 under a marketing plan or system prescribed in substantial part
0174 by the other party, and in which there is a community of interest
0175 in the marketing of goods or services at wholesale or retail, by
0176 lease, agreement or otherwise; and

0177 (2) the operation of the grantee's business pursuant to such
0178 agreement is substantially associated with the grantor's trade-
0179 mark, service mark, trade name, logotype, advertising or other
0180 commercial symbol designating the grantor or an affiliate of the
0181 grantor.

0182 (ee) "Mobile home sales agreement" means a contract be-
0183 tween the manufacturer or distributor of mobile homes and a
0184 new mobile home dealer, by which the dealer is entitled to
0185 purchase new mobile homes from the manufacturer or distribu-
0186 tor for resale within this state.

0187 (ff) "Broker" means any person who, for commission, money
0188 or other thing of value, is engaged in the business of: (1) Selling
0189 or buying vehicles or mobile homes for other persons as an
0190 agent, middleman or negotiator; or (2) bringing buyers and
0191 sellers of vehicles or mobile homes together, but such term shall
0192 not include any person engaged in a business in which the acts
0193 described in this subsection are only incidentally performed.

0194 (gg) "Salvage vehicle dealer" means any person engaged in
0195 the business of buying, dismantling, disassembling or recycling
0196 wrecked, abandoned or repairable vehicles and selling the us-
0197 able parts thereof, or selling such wrecked, abandoned or re-
0198 pairable vehicles as a unit at wholesale or selling the hull of the
0199 vehicle after the salvageable parts have been removed.

0200 (hh) "Lending agency" means any person, desiring to be
0201 licensed under this act and engaged in the business of financing
0202 or lending money to any person to be used in the purchase or
0203 financing of a vehicle or mobile home.

0204 (ii) "Established place of business" means a building or
0205 structure, other than a building or structure all or part of which is
0206 occupied or used as a residence, owned either in fee or leased
0207 and designated as an office or place to receive mail and keep
0208 records and conduct the routine of business. To qualify as an
0209 established place of business, there shall be located therein an
0210 operable telephone which shall be listed with the telephone
0211 company under the name of the licensed business, *except that a*
0212 *vehicle dealer who derives at least 50% of such person's income*
0213 *from operating a farm as a resident thereof, the established*
0214 *place of business may be the farm residence of such vehicle*
0215 *dealer and the operable telephone may be located in such*
0216 *residence when such dealer engages only in vehicles and equip-*
0217 *ment not required to have vehicle registration to travel on a*
0218 *highway.*

0219 (jj) "Auction motor vehicle dealer" means any person who for
0220 commission, money or other thing of value is engaged in an
0221 auction of motor vehicles except that the sales of such motor
0222 vehicles shall involve only motor vehicles owned by licensed
0223 motor vehicle dealers and sold to licensed motor vehicle dealers,
0224 except that any auction motor vehicle dealer, registered as such
0225 and lawfully operating prior to June 30, 1980, shall be deemed to
0226 be and have been properly licensed under this act from and after
0227 July 1, 1980. For the purposes of this subsection, an auction is a
0228 private sale of motor vehicles where any and all licensed motor
0229 vehicle dealers who choose to do so are permitted to attend and
0230 offer bids and the private sale of such motor vehicles is to the

0231 highest bidder.

0232 (kk) "Licensee" means any person issued a valid license
0233 pursuant to this act.

0234 (ll) "Dealer" means a mobile home dealer or a vehicle dealer
0235 as defined by this act, unless the context otherwise requires.

0236 (mm) "Insurance company" means any person desiring to be
0237 licensed under this act and engaged in the business of writing or
0238 servicing insurance related to vehicles.

0239 Sec. 2. K.S.A. 1985 Supp. 8-2401 is hereby repealed.

0240 Sec. 3. This act shall take effect and be in force from and
0241 after its publication in the statute book.

A M E N D M E N T S

T O

S.B. 546

- Line 0036 change "senate majority leader" to
"President of the Senate"
- Line 0038 change "house majority leader"
to "Speaker of the House"
- Line 0078 after "purchases" and before the comma
insert "and administrative costs."
- Line 0111 after "buydowns" and before the period
insert "and administrative costs."
- Line 0113 change "statute book" to "Kansas Register"

attachment 2
2/13/86 Sen. Ag.