

Approved February 18, 1986

Date

and corrected

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Robert Frey at
Chairperson

10:00 a.m. ~~xxx~~ on February 4, 1986 in room 514-S of the Capitol.

~~All~~ members ~~were~~ present ~~except~~: Senators Frey, Hoferer, Burke, Feleciano, Gaines, Langworthy, Parrish, Steineger, Talkington, Winter, and Yost.

Committee staff present:

Mary Sue Hack, Office of Revisor of Statutes
Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department

Conferees appearing before the committee:

Pat Barnes, Kansas Motor Car Dealers Association

The chairman announced the subcommittee for Sub. for HB 2050 will meet today at 4:00 in room 531-N. Anyone interested is welcome to attend.

Senate Bill 474 - An act relating to liens on personal property for materials and services; concerning the time limit for filing.

Pat Barnes, Kansas Motor Car Dealers Association, appeared to express the association's support for the bill. He explained this bill extends the time in which a person may file a personal property lien for materials and services rendered to improve that property from 45 to 90 days. A copy of his testimony is attached (See Attachment I). During discussion a committee member inquired why not 60 days instead of 90? Mr. Barnes replied the 90 days fits into a delinquent billing cycle.

Senate Bill 277 - An act amending the Kansas tort claims act; relating to persons covered thereby.

The chairman reviewed the bill. Following staff's explanation of an amendment to the bill, Senator Burke moved to amend the bill in line 40 by inserting "other than municipality" after contractor. Senator Feleciano seconded the motion, and the motion carried. Senator Burke moved to report the bill favorably as amended. Senator Gaines seconded the motion, and the motion carried.

Senate Bill 278 - An act concerning the uniform controlled substances act; relating to forfeitures.

Following considerable committee discussion, Senator Gaines made a conceptual motion by adding another sentence to Section 1.(7)(D), the burden is on the state to prove the burden of knowledge only applies to the lien holder. Senator Winter seconded the motion. Following further committee discussion, Senator Gaines withdrew his motion. Senator Burke then moved to report the bill favorably. Senator Talkington seconded the motion. Following discussion, Senator Winter made a substitute motion to amend the bill in Section 1 by striking subsection (A) in line 73 and inserting conceptual language in instances for feitures of homestead, showing consent

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on February 4, 1986

Senate Bill 278 continued

and knowledge were present; and striking in lines 75 and 76 "established by the owner thereof to have been". Senator Langworthy seconded the motion, and the motion carried. Senator Burke moved to report the bill favorably as amended. Senator Talkington seconded the motion, and the motion carried.

The meeting adjourned.

Copy of minutes are attached (See Attachment II).

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: 2-4-86

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
PAT BARNES	TOPPEKA	Ks. Motor Car Dealers Assn.
Donna Smith	Topeka	Kansas Bar Assoc.
Kath J Marney	Topeka	YMCA
DAN MORGAN	"	AGC of KS
John Wheeler	"	Colum Nat'l Title
MARSHALL MC LAUGHLIN	"	Ks. ASSOC. REALTORS
Ric Silber	"	DOB
Jaim Clark	"	KCOAA
Bob West	"	Ks. Lumber Dealers
Bryan Daniel	Lawrence	—
Ches Blum	Merriam	Ks. Coll. Repub.
M.C. Chukhotz	Topeka	Ks. U. League

2-4-86

BEFORE THE SENATE COMMITTEE
ON JUDICIARY REGARDING SB 474

Mr. Chairman, Members of the Committee, I am Pat Barnes, Legislative Counsel for the Kansas Motor Car Dealers Association. Today I appear before you to express KMCDA's support for SB 474. This bill extends the time in which a person may file a personal property lien for materials and services rendered to improve that property from 45 days to 90 days.

Traditionally, Kansas has had a "mechanics' lien" statute which, among other things, allows an automobile mechanic to place a lien upon a person's car for work done to the car. Under the present law, this lien is only valid while the car (or other property) is in the possession of the person claiming the lien or if the lien claimant files a lien statement with the Register of Deeds within 45 days after giving up possession of the car (or other property).

SB 474 would extend the time for filing a lien statement from 45 days to 90 days. This change is needed for a number of reasons.

First, automobile dealers, both large and small, carry open-end accounts. That is, a person may bring a vehicle in for repair and pick it up when the job is completed without paying for the repairs. Several repairs may be carried on the same

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account. The person is then billed for the work on a monthly basis. In some cases the time allowed for filing a mechanics' lien can elapse before it becomes known that the customer will not pay for the work. The dealer then has no security for the debt and this can mean he will not be paid, even though he can seek enforcement of the obligation against the debtor personally.

Similarly, a second justification for this extension is customer relations. Many businessmen do not like to assume a customer will not pay a bill and file a lien simply because the debt is 45 days old. Many accounts are this old when they are paid. We think a reasonable payment period on a repair bill can be at least 45 days and so the requested change in SB 474 conforms this law to this fact.

Third, many billing cycles may be set up in such a manner that by the time a bill for a repair is sent out and a reasonable period of time has elapsed for its payment, the present 45-day period allowed for filing the lien may have expired. This type of situation arises where work is performed on a car at the beginning of a month, statements are sent at the end of the month and payment is due 15 days after the receipt of the statement.

Overall, we believe extending the deadline for filing a mechanics' lien to 90 days after parting with possession of the property will have several positive effects. First, it should improve customer relations. Second, it will give greater security not just to automobile dealers, but to all covered repairman who perform valuable work and services for individuals and businesses.

We urge adoption of this legislation. By adopting this legislation, Kansas automobile dealers, as well as others, will be allowed greater flexibility in handling accounts incurred for the repair or improvement of vehicles.