

Approved 3-18-86
Date

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by Sen. Bill Morris at
Chairperson

9:00 a.m./~~PM~~ on February 28, 1986 in room 254-E of the Capitol.

All members were present ~~except~~.

Committee staff present:

Arden Ensley, Revisor of Statutes
Ben Barrett, Legislative Research Department
Louise Cunningham, Secretary

Conferees appearing before the committee:

Sen. Jack Steineger
Mike Germann, Kansas Railroad Association
Ron Calbert, United Transportation Union
Leroy Jones, Brotherhood of Locomotive Engineers
Don Detwilder, Member, Brotherhood of Locomotive Engineers
Sen. Bob Frey
Mary Turkington, Motor Carriers Association
Steven Wiechman, Kansas Automotive Dismantlers and Recyclers Association
Bill Edds, Department of Revenue
Jim Sullins, Kansas Motor Car Dealers Association

HEARING ON S.B. 606 - Prohibiting railroad whistle sounding.

Sen. Steineger said sounding a whistle works well except through residential areas in cities of the first class. He had a suggested amendment to the bill (Attachment 1) which provided that whistles would not blow in these cities if the crossings were protected by barriers, red lights, and bells. He said the whistle does not always prevent accidents at crossings. He said the whistles sometimes blow every 30 to 40 minutes.

Mike Germann, Kansas Railroad Association, said they were opposed to this. If the engineer had to judge "imminent danger" it would place an unreasonable burden on him. A copy of his statement is attached. (Att. 2).

Ron Calbert, Director, United Transportation Union, said they were opposed to this bill. They are a supporter of "Operation Lifesaver" which is a cooperative effort between states and the purpose is to reduce accidents at crossings. It would be very confusing for engineers to decide if there was "imminent" danger. A copy of his statement is attached. (Att. 3).

Leroy Jones, Brotherhood of Locomotive Engineers, said he is an engineer and has hit a number of cars. Some of these have caused deaths and it is a terrible feeling he has to carry the rest of his life. He said the cities that did not want the whistle should just pass a city ordinance. A copy of his statement in opposition to S.B. 606 is attached. (Att. 4).

Don Detwiler, Brotherhood of Locomotive Engineers, said they need all the tools at their disposal to make the crossings as safe as possible. He opposed S.B. 606. A copy of his statement is attached. (Att. 5).

HEARING ON S.B. 624 - Disposition of personal property which is abandoned.

Sen. Frey said the disposal of abandoned automobiles was a real problem to people in the towing or wrecking business. These cars accumulate

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,
room 254-E, Statehouse, at 9:00 a.m./~~p.m.~~ on February 28, 1986

in the course of doing business and it is difficult to dispose of them. The owners abandon them, the insurance companies have paid off and are not interested. They have to keep the vehicles for six months before beginning procedure. There are three or four different laws covering this and this bill would establish standard procedures for abandoned automobiles.

Mary Turkington, Kansas Motor Carriers Association, said they support this bill and it would help tow truck operators. A copy of her statement is attached. (Att. 6).

Steven Wiechman, ADARA, said they support this bill and it would be helpful to their Association.

ACTION ON S.B. 470 - Bond required for certain dealers.

Sen. Doyen had amendments prepared to S.B. 470 which was reworded to include brokers of new or used recreational vehicles. It also contained a grandfather clause because the committee didn't want to put anyone out of business. A copy of his amendment is attached. (Att. 7).

Jim Sullins, Motor Car Dealers Association, said he agreed with the amendments.

The Chairman said there was no penalty provision in this bill and asked how this was handled by the Department of Revenue.

Bill Edds, Department of Revenue, said there has not been a great deal of activity but they could obtain an injunction procedure to handle the problem.

It was the Attorney General's opinion that brokers did fall under the Consumer Protection Act.

It was brought out by the Revisor that recreational vehicles would need a definition in this bill.

Sen. Walker made a motion to go back to the original sub-committee report and adopt the amendments and recommend S.B. 470 as amended favorably for passage. The motion did not receive a second.

The committee discussed the brokers' license and felt it should be transferred if the business is sold.

A conceptual motion was made by Sen. Doyen to adopt his amendments, add a penalty section, define R.V.s and have the transfer of brokers' licenses in it. Motion was seconded by Sen. Francisco. Motion carried.

A motion was made by Sen. Doyen to recommend S.B. 470, as amended, favorably for passage. Seconded by Sen. Francisco. Motion carried.

Meeting was adjourned at 10:05 a.m.

SENATE BILL No. 606

By Senator Steineger

2-11

0017 AN ACT concerning railroads; relating to the sounding of whis-
0018 tles; amending K.S.A. 66-2,120 and repealing the existing
0019 section.

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

0021 Section 1. K.S.A. 66-2,120 is hereby amended to read as
0022 follows: 66-2,120. (a) An air whistle shall be attached to each
0023 locomotive engine, and shall be sounded four (4) times (two
0024 long, one short and one long blast) beginning at least eighty (80)
0025 80 rods from the place where the railroad shall ~~eross~~ crosses any
0026 public road or street and to be prolonged or repeated until the
0027 crossing is occupied by the engine or car, except in cities and
0028 villages, under a penalty of not more than ~~twenty dollars (\$20)~~
0029 \$20 for every *each* neglect of the provisions of this section, to be
0030 paid by the corporation owning the railway on the suit of the
0031 county attorney, ~~one-half~~ 1/2 thereof to go to the informer, and the
0032 other half 1/2 to the county treasurer; and. The corporaion shall
0033 also shall be liable for all damages which shall be sustained by
0034 any person by reason of such neglect: ~~Provided, however, That.~~
0035 Such penalty shall be sued for within one (1) month from the
0036 time the cause of action accrues; and ~~not thereafter. And pro-~~
0037 ~~vided further, That~~ but. Only one penalty shall be recovered in
0038 any one action.

0039 (b) Locomotive air whistles shall not be sounded as provided
0040 in subsection (a), in cities of the first class unless necessitated by
0041 an imminent danger.

at any public road or street crossing guarded
by barriers, red lights and bells
perceived or

0042 Sec. 2. K.S.A. 66-2,120 is hereby repealed.

0043 Sec. 3. This act shall take effect and be in force from and
0044 after its publication in the statute book.

A.T.T.
①

A.T.T. ①
S. T. U. 2/28/86

2

KANSAS RAILROAD ASSOCIATION

920 S.E. QUINCY
P.O. BOX 1738
TOPEKA, KANSAS 66628

913-357-3392

February 28, 1986

PATRICK R. HUBBELL
SPECIAL REPRESENTATIVE-PUBLIC AFFAIRS

MICHAEL C. GERMANN, J. D.
LEGISLATIVE REPRESENTATIVE

MR. CHAIRMAN AND MEMBERS OF THE SENATE COMMITTEE ON
TRANSPORTATION AND UTILITIES:

My name is Mike Germann. I am a representative of the
Kansas Railroad Association.

Senate Bill 606 would amend K.S.A. 66-2,120, a statute
enacted in 1868. The issue addressed by the 1868
Legislature was one of public safety. The Railroad
Association believes that K.S.A. 66-2,120 expresses a public
policy which was appropriate and reasonable when originally
enacted and which is appropriate and reasonable today.

The proposed standard of "imminent danger" contained in
new subsection (b) would impose an unreasonable burden on
locomotive engineers. A train of average length and average
loaded weight, operating on flat grade at thirty miles an
hour under normal weather conditions, requires more than
1,000 feet to stop -- more than three city blocks. The only
tool available to a locomotive engineer to avoid a crossing
accident is the sounding of the locomotive air whistle.

We oppose passage of Senate Bill 606. However, if the
Committee determines the bill should be reported favorably,
we would urge the Committee to strike subsection (b) and
substitute the following language:

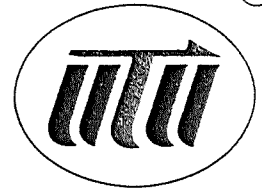
- (b) At any railroad crossing where a city
of the first class has erected stop
signs on both sides of a crossing and
has erected signs warning motorists
that locomotive air whistles will not
be sounded, a locomotive air whistle
shall not be sounded as prescribed in
subsection (a) unless an imminent danger
exists. Failure to sound a locomotive
air whistle at railroad crossings in
cities of the first class where stop
signs and warning signs have been erected
pursuant to the foregoing provision shall
not constitute actionable negligence.

Thank you for the opportunity to present our statement.
I will try to respond to any questions which you may have.

ATT. (2)
S.TJU 2/28/86

R. E. (RON) CALBERT
DIRECTOR CHAIRMAN

united
transportation
union



OAK STREET PLACE SUITE A
130 EAST FIFTH STREET
P.O. BOX 726
NEWTON, KANSAS 67114-0726
TELEPHONE (316) 283-8041

KANSAS STATE LEGISLATIVE BOARD

STATEMENT OF

RON E. CALBERT, DIRECTOR

KANSAS STATE LEGISLATIVE BOARD
UNITED TRANSPORTATION UNION

REGARDING SENATE BILL NO. 606

FEBRUARY 28, 1986

ATT. (3)
S. TU 2/28/86

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY ON SENATE BILL No. 606. I AM RON E. CALBERT, DIRECTOR, KANSAS STATE LEGISLATIVE BOARD, **UNITED TRANSPORTATION UNION**. MR. CHAIRMAN, I HAVE THIRTY-- TWO (32) YEARS SERVICE WITH THE SANTA FE RAILROAD AT NEWTON, KANSAS. I HAVE WORKED AS AN ENGINE FOREMAN, YARD MASTER, AND BRAKEMAN. I APPEAR TODAY IN OPPOSITION OF SENATE BILL No. 606.

IN THE GENERAL CODE OF OPERATING RULES ADOPTED BY THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ON OCTOBER 28, 1985, IN WHICH ALL EMPLOYEES ARE REQUIRED TO HAVE AN UNDERSTANDING OF ALL RULES, IT STATES:

RULE 15 (SUB L) - REQUIRED WHISTLE SIGNALS, APPROACHING PUBLIC CROSSINGS AT GRADE, TO BE COMMENCED SUFFICIENTLY IN ADVANCE TO AFFORD WARNING, BUT NOT LESS THAN ONE-- FOURTH MILE BEFORE REACHING A CROSSING, IF DISTANCE PERMIT, AND PROLONGED OR REPEATED UNTIL CROSSING IS OCCUPIED BY ENGINE. IF DISTANCE DOES NOT PERMIT, WHISTLE SIGNAL MUST BE COMMENCED SUFFICIENTLY IN ADVANCE OF ENTERING CROSSING TO PROVIDE WARNING.

CROSSING ACCIDENTS ARE A CONCERN OF THE **UNITED TRANSPORTATION UNION**. THAT IS WHY WE ARE A STRONG SUPPORTER OF "OPERATION LIFESAVER." OPERATION LIFESAVER, A COOPERATIVE EFFORT BETWEEN THE STATES, RAILROADS AND PUBLIC SERVICE GROUPS, IS A PUBLIC AWARENESS PROGRAM TO REDUCE ACCIDENTS AT RAIL-HIGHWAY CROSSINGS. THE STATE OF IDAHO AND UNION PACIFIC RAILROAD INITIATED THE PROGRAM IN THE EARLY 1970'S. OPERATION LIFESAVER EMPHASIZES DRIVER EDUCATION, LAW ENFORCEMENT AND ENGINEERING IMPROVEMENTS

TARGETED AT CROSSINGS AND CROSSING USERS. THIS PROGRAM APPLIES TO ALL CROSSINGS, BOTH PUBLIC AND PRIVATE, WITH OR WITHOUT AUTOMATED WARNING DEVICES. OPERATION LIFESAVER IS SUCCESSFUL, POPULAR, AND HAS GENERATED WIDESPREAD INTEREST SINCE ITS INCEPTION. WITH SUPPORT OF THE NATIONAL SAFETY COUNCIL (NSC), AND FUNDING FROM THE AMERICAN ASSOCIATION OF RAILROADS, AND AMTRAK, THE PROGRAM HAS BEEN ADOPTED IN 47 STATES (EXCLUDING HAWAII, DELAWARE AND PENNSYLVANIA).

THE PROGRAM IS STRUCTURED TO REACH THE MOTORIST THROUGH THE THREE E'S - EDUCATION, ENGINEERING AND ENFORCEMENT. EDUCATION WORKS THROUGH THE MEDIA, USING RADIO AND TELEVISION PUBLIC SERVICE ANNOUNCEMENTS, POSTERS, BUMPER STICKERS, HANDOUTS, MAILINGS AND SPEAKERS' BUREAUS TO EDUCATE SCHOOL CHILDREN, DRIVERS, AND CIVIC GROUPS. ENGINEERING DEALS WITH THE IMPROVEMENT AND STANDARDIZATION OF SIGNS, PAVEMENT MARKINGS, AUTOMATED WARNING DEVICES AND SIGHT-DISTANCE AT OR NEAR CROSSINGS. ENFORCEMENT INVOLVES COMMUNICATING WITH LOCAL LAW ENFORCEMENT OFFICERS TO ELICIT THEIR COOPERATION IN REEMPHASIZING STATE AND LOCAL ORDINANCES AND THE NEED FOR COMPLIANCE.

ATTACHED TO THIS PRESENTATION IS A COPY OF THE LATEST REPORT OF TOTAL RAIL-HIGHWAY GRADE CROSSING ACCIDENTS, BY COUNTIES, THAT OCCURRED IN KANSAS IN 1984.

MR. CHAIRMAN, IT WOULD BE VERY CONFUSING FOR OUR MEMBERS TO HAVE TO DECIDE IF IMMINENT DANGER NECESSITATED THE SOUNDING OF A LOCOMOTIVE AIR WHISTLE AT PUBLIC ROADS AND STREET CROSSINGS IN THE CITY LIMITS OF A FIRST CLASS CITY. MR. CHAIRMAN, AND MEMBERS OF THE COMMITTEE, THE **UNITED TRANSPORTATION UNION** ASKS THAT THE COMMITTEE TAKE NO ACTION ON SENATE BILL No. 606.

TOTAL RAIL-HIGHWAY GRADE CROSSING ACCIDENTS

COUNTY	PRO-TECTED			UNPRO-TECTED		
	Number of Accidents	Number of Injuries	Number of Fatalities	Number of Accidents	Number of Injuries	Number of Fatalities
Allen				1		
Anderson				4	3	
Atchison				1	1	
Barber				2	3	
Barton	1		1	1		1
Bourbon	1					
Brown				1	1	
Butler				7	2	
Chase	1	1				
Chautauqua				1	1	
Cherokee						
Cheyenne						
Clark	1					
Clay						
Cloud				1		
Coffey	1					
Commanche						
Cowley	4	1	1	2	1	
Crawford	3	3		6	4	
Decatur						
Dickinson				1	1	
Doniphan	1					
Douglas	1			2		
Edwards						
Elk						
Ellis	1					
Ellsworth	1					
Finney	1	1		1	1	
Ford	3	2		5	2	
Franklin	2			2	1	
Geary						
Gove						
Graham						
Grant						
Gray				1	1	1
Greeley						
Greenwood						
Hamilton						
Harper				1		
Harvey						
Haskell						
Hodgeman						
Jackson	1					
Jefferson	1			1		
Jewell						
Johnson	3	1		7	2	1
Kearny						
Kingman						
Kiowa						
Labette				1		
Lane						
Leavenworth				2		
Lincoln						
Linn	2	2				
Logan						

YEAR:
1984

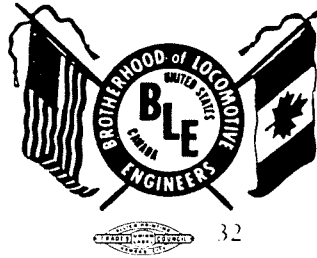
COUNTY	PRO-TECTED			UNPRO-TECTED		
	Number of Accidents	Number of Injuries	Number of Fatalities	Number of Accidents	Number of Injuries	Number of Fatalities
Lyon						
Marion						
Marshall	2			2		
McPherson				4	3	1
Meade						
Miami				1		
Mitchell				1	1	
Montgomery	2			2		
Morris				1	1	
Morton				1	2	
Nemaha				1		
Neosho	1	1		3	2	
Ness	1	1				
Norton						
Osage	1			1	1	
Osborne				1	1	
Ottawa				1	1	1
Pawnee						
Phillips						
Pottawatomie						
Pratt				2	2	
Rawlins				1		3
Reno	2	2		2	2	
Republic						
Rice						
Riley				2		
Rooks						
Rush	1	1		1	1	
Russell				1		
Saline	2	1		7	5	
Scott						
Sedgwick	9	7		10	3	2
Seward	1			1		
Shawnee	1			4	3	2
Sheridan				1		
Sherman						
Smith						
Stafford						
Stanton						
Stevens						
Sumner				2	1	
Thomas				2		
Trego						
Wabaunsee				2		1
Wallace						
Washington				1		
Wichita				1	1	1
Wilson				2		3
Woodson						
Wyandotte	5			2		
T O T A L S	57	21	5	116	54	17

SOURCE: Monthly accident reports filed by Kansas Railroads.

4

Brotherhood of Locomotive Engineers

Kansas State Legislative Board



LEROY D. JONES
Chairman
12601 W. 105th
Overland Park, Kansas 66215
(913) 492-4096

DONALD E. DETWILER
1st Vice Chairman
1001 E. 6th Street
Pratt, Kansas 67124
(316) 672-2551

JAMES R. DAME
2nd Vice Chairman
466 W. 7th Street
Hoisington, Kansas 67544
(316) 653-7524

LEO M. SRUBAS
Secretary-Treasurer
5005 Georgia
Kansas City, Kansas 66104
(913) 287-8280

February 28, 1986

Mr. Chairman and Members of the Committee:

Testimony in opposition to the passage of Senate Bill 606.

I am Leroy Jones, chairman of the Kansas Legislative Board for the Brotherhood of Locomotive Engineers. I am here today to speak in opposition of the passage of Senate Bill 606.

I am a railroad engineer that has the constant fear that a train that I am running is going to hit a car or truck at a crossing. I have hit a number of cars which has caused a number of deaths. You cannot imagine the terrible feeling that I have to carry with me the rest of my life.

Here in Kansas, the railroad companies and the rail labor unions have united with the State of Kansas in forming a program to cut down on the number of auto fatalities occurring at railroad crossings. The program is know as Operation Lifesavor. This is a good program and it has proven to cut down on the number of accidents.

With the passage of this bill, it will take one of the main instruments that a railroad engineer has to warn on coming cars, the whistle.

Last, this is an unnecessary bill to consider. The law is clear, in that if a city has a crossing that they do not want a whistle to sound at, all it has to do is to pass a city ordinance. Why then, doesn't the area that wants to eliminate the blowing of whistles, pass a city ordinance locally.

ATT. 4
S. TLU 2/28/86

Page 2

I would like to thank the committee for their time, and urge you to vote against the passage of Senate Bill 606.

Thank you.

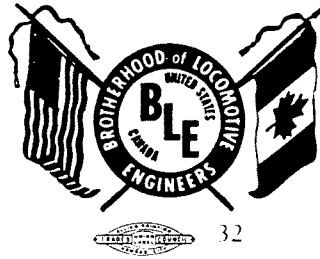
Leroy Jones
Kansas Legislative Chairman
Brotherhood of Locomotive Engineers.

Brotherhood of Locomotive Engineers

Kansas State Legislative Board

LEROY D. JONES
Chairman
12601 W. 105th
Overland Park, Kansas 66215
(913) 492-4096

DONALD E. DETWILER
1st Vice Chairman
1001 E. 6th Street
Pratt, Kansas 67124
(316) 672-2551



JAMES R. DAME
2nd Vice Chairman
466 W. 7th Street
Hoisington, Kansas 67544
(316) 653-7524

LEO M. SRUBAS
Secretary-Treasurer
5005 Georgia
Kansas City, Kansas 66104
(913) 287-8280

FEBRUARY 28, 1986

TESTIMONY IN OPPOSITION TO THE PASSAGE OF SENATE BILL 606.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I AM DON DETWILER, A MEMBER OF THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS. I WORK FOR THE ST. LOUIS SOUTHWESTERN RAILWAY, COMMONLY KNOWN AS THE COTTON BELT, FROM PRATT TO LIBERAL KANSAS AS A LOCOMOTIVE ENGINEER. I SPEAK TODAY IN OPPOSITION OF THE PASSAGE OF SENATE BILL 606.

IT IS IRONIC THAT A BILL SUCH AS THIS WOULD BE PRESENTED, WHEN ONLY IN THE PAST FEW WEEKS, STATISTICS WERE RELEASED SHOWING THAT GRADE CROSSING ACCIDENTS WERE LOWER IN 1985 THAN IN 1984. I DON'T BELIEVE THIS HAPPENED, PARDON THE PUN, BY ACCIDENT.

RAILROAD LOCOMOTIVES OVER THE YEARS HAVE BEEN REQUIRED BY STATE OR FEDERAL LAW TO HAVE A BURNING HEADLIGHT, A BELL AND WHISTLE. AT THE OPTION OF THE RAILROAD, SOME LOCOMOTIVES ARE ALSO EQUIPPED WITH AN OSCILLATING HEADLIGHT OR A STROBE LIGHT. THESE DEVICES ARE NOT PUT ON A LOCOMOTIVE TO ANNOY THE PUBLIC, BUT ARE TO SERVE AS SAFETY AND WARNING SIGNALS TO SAVE LIVES.

I AM AWARE OF THE FACT THAT A GREAT NUMBER OF CROSSINGS ARE SIGNALIZED IN FIRST CLASS CITIES, THAT TRAINS AND ENGINES NORMALLY MOVE AT A SLOWER RATE OF SPEED THAN IN THE PART OF THE STATE IN WHICH I RESIDE. THIS IS NOT TO SAY THAT THE SAME EFFORT SHOULD NOT BE PROVIDED TO PROTECT THE LIVES OF THE CITY DWELLER.

ATT. (5)
S.T.U. 2/28/86

THE STATE OF KANSAS, PARTICIPATING RAILROADS, AND OUR OPERATING UNIONS COOPERATE IN A JOINT EFFORT KNOWN AS OPERATION LIFESAVER. THIS ENDEAVOR HAS MORE THAN PROVEN THAT WE CAN SAVE LIVES, BUT WE NEED ALL THE TOOLS AT OUR DISPOSAL IN ORDER TO CONTINUE TO DO THIS. SO PLEASE DON'T TAKE THE RIGHT TO BLOW THE WHISTLE AWAY FROM THE ENGINEER.

I THANK THIS COMMITTEE FOR THEIR TIME.

DONALD E. DETWILER
1ST VICE CHAIRMAN
KANSAS LEGISLATIVE BOARD
BROTHERHOOD OF LOCOMOTIVE ENGINEERS

STATEMENT

By The

KANSAS MOTOR CARRIERS ASSOCIATION

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

Presented to the Senate Transportation &
Utilities Committee, Senator Bill Morris,
Chairman; Statehouse, Topeka, Friday,
February 28, 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 morning 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. He has enumerated some of the problems his constituent brought to his attention.

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

ATT. ⑥
S. TJU 2/28/86

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.

#####

AMENDMENTS TO SB 470

Section 1.

New (q) -- On and after January 1, 1987, it shall be a violation of this act to act as a broker of new or used recreational vehicles.

New (r) -- On and after January 1, 1987, it shall be a violation of this act to act as a broker of new motor vehicles as defined in K.S.A. 8-2401 and amendments thereto.

New (s) -- On and after January 1, 1987, the director shall not approve any application for an original license as a "broker" as defined in K.S.A. 8-2401 (ff). Any broker licensed by the director prior to January 1, 1987, may continue to be licensed until such time as such license is not renewed, suspended, revoked or terminated.

ATT. (7)
S. T. U 2/28/86