

MINUTES OF THE House COMMITTEE ON Transportation

The meeting was called to order by Representative Rex Crowell at
Chairperson

1:30 ~~xxx~~ p.m. on March 23, 1987 in room 519-S of the Capitol.

All members were present except: Representatives Laird and Wilbert

Committee staff present:

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

Conferees appearing before the committee:

Senator Richard Bond
Mr. Ray Petty, Kansas Department of Human Resources
Mr. Steve Montgomery, Kansas Oil Marketers Association
Sgt. Bob Giffin, Kansas Highway Patrol
Trooper Ray Bailiff, Kansas Highway Patrol
Representative Keith Rowe
Mr. Tom Green, Mid States Port Authority
Ms. Chris Wilson, Kansas Grain & Feed Dealers Association

The meeting was called to order by Chairman Crowell, and the first order of business was a hearing on SB-298 regarding the dispensing of motor fuels to drivers of vehicles displaying license plates or placards issued to handicapped persons.

Senator Richard Bond, co-sponsor of the bill, briefed the Committee on its contents. He said passage of SB-298 would require service for handicapped persons at the "self service" price at stations where both "full service" and "self service" are offered.

Mr. Ray Petty, Kansas Department of Human Resources, testified in support of SB-298. (See Attachment 1) Mr. Petty recommended that in regard to pumping gas for a handicapped person, the bill be amended to read "not accompanied by a person capable of dispensing motor vehicle fuels".

Mr. Steve Montgomery, Kansas Oil Marketers Association, testified favorably concerning SB-298. He stated the Kansas Oil Marketers Association at the current time is trying to persuade all of their members to offer special assistance to handicapped patrons. Mr. Montgomery further said Kansas Oil Marketers Association does not care if the \$1 service fee is stricken from SB-298.

The hearing on SB-298 was concluded.

The next order of business was a hearing on SB-192 concerning the use of safety glazing materials and sun screening devices on vehicle windshields and windows.

Mr. Ray Petty, Kansas Department of Human Resources, gave favorable testimony concerning SB-192. (See Attachment 2)

Sgt. Bob Giffin, Kansas Highway Patrol, testified on SB-192. (See Attachment 3) He said that officer safety is still a concern of major importance. Traffic stops are high risk situations for law enforcement, representing 16 percent of the officers killed in the line of duty during 1986.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,
room 519-S, Statehouse, at 1:30 ~~xx~~/p.m. on March 23, 1987.

Discussion followed concerning various degrees of window tinting, and Sgt. Giffin said there would be a test conducted during the evening to see how much an officer could see into a vehicle with tinted windows. He invited members of the Transportation Committee to take part in the test.

Trooper Ray Bailiff, Kansas Highway Patrol, testified in opposition to SB-192. He requested that the Committee take no action on this bill until after the testing is completed on visibility into a vehicle with 35 percent light transmission. He invited the Committee to take part in the testing to be held in Lawrence, Kansas on March 23, 1987 at 7:00 p.m. (See Attachment 4)

Chairman Crowell appointed a subcommittee consisting of Representative Sallee, Chairman, and Representatives Smith and Campbell to further look into SB-192.

The next order of business was a hearing on HB-2465 concerning powers and duties of port authorities.

Representative Keith Rowe, spoke in support of HB-2465. He said the Mid States Port Authority is still a vital transportation link. He explained provisions of HB-2465 regarding the private sale of Authority property without the bidding process.

Mr. Tom Green, Mid States Port Authority, testified in support of HB-2465. (See Attachment 5)

Mr. Green said the Port Authority was originally created by 14 counties in northwest and north central Kansas, and its purpose was to acquire a portion of the Rock Island Railroad from the bankrupt trustee to assure continued rail service throughout those areas.

Mr. Green said originally there were 14 counties in the Port Authority, but in 1986 Wabaunsee County withdrew leaving 13. He also said to his knowledge the Mid States Port Authority is the only Authority operating in Kansas.

Mr. Green requested that Section 2 of HB-2465 be amended, inserting language from SB-375 concerning the application of the Tort Claims Act to the Authority. He said the Sedgwick County District Court recently ruled that the Tort Claims Act does not apply to the Authority. Although the Authority disagrees and has appealed that decision, the language relied upon by the district court is that phrase which the Authority is requesting be removed in HB-2465 at lines 127 and 128.

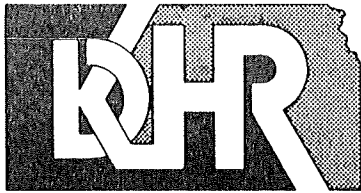
Mr. Green also requested that in lines 372, 412 and 513 of HB-2465 the language dealing with "creating" and "comprising" be reviewed for appropriateness.

Ms. Chris Wilson, Kansas Grain & Feed Dealers Association, spoke in support of HB-2465. (See Attachment 6) (She said the specific section of the bill which would affect the grain industry is Section 6 (b), on Page 10, which would allow a port authority to sell property by public bid or through negotiation.

A subcommittee was appointed by Chairman Crowell consisting of Representative Snowbarger, chairman, and Representatives Shore and Adam, to further study HB-2465.

The meeting was adjourned at 3:20 p.m.


Rex Crowell, Chairman

ADVISORY COMMITTEE ON EMPLOYMENT
OF THE HANDICAPPED1430 S.W. Topeka Avenue, Topeka, Kansas 66612-1877
913-232-7828 (V/TDD) 567-0828 KANS-A-N

Testimony in support of Senate Bill 298
Presented to the Senate Transportation and Utilities Committee
by Ray Petty, Legislative Liaison, KACEH
March 23, 1987

Senate Bill 298 requires service stations which provide both full- and self-service to pump fuel at the self-service price for a disabled motorist displaying a disabled veteran license plate or handicapped license plate or placard. This bill does not require that services beyond the actual fueling be supplied at that price nor does it apply to service stations which are self-service only or to stations which do provide full-service during times when such services are not available to the general public.

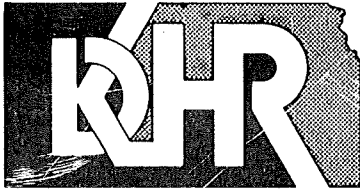
KACEH supports S.B. 298 because it increases the independence of mobility-impaired persons who drive their own cars or vans. During the Senate hearings on the bill I mentioned that it is unlikely that a person who would use this privilege when alone would do so when another person was in the vehicle with them. Apparently the Senate committee took that comment seriously because they amended the bill to say that the service would be available when the handicapped person is unaccompanied. I respectfully submit, and I have conferred with Senators Morris, Bond and Langworthy on this, that it would be more appropriate to say "not accompanied by a person capable of dispensing motor-vehicle fuels" or other words to that effect. It would not be reasonable to refuse service to a disabled person who might be accompanied by a seven-year-old child, for example, or by an elderly father or mother not capable of jumping out of the car and pumping the gas. That would defeat the purpose of the bill. I still feel that friends or family who are capable of assisting and who are passengers in the vehicle would be glad to pump the gas. But if two disabled persons were together, and neither could do so, then being accompanied should not rule out this service.

In the matter of the optional fee of up to \$1 being charged, we do not oppose that provision because, after all, an intermediate level of service is being provided. But if the optional charge remains in the bill, I would ask that language be added requiring that fee to be prominently posted so that confusion over the fact that one station waives that charge while another station down the street doesn't could be reduced. That way, possible financial embarrassment of a person asking for \$5 or \$10 worth of gas, when that is all the cash they have at the time and they weren't aware of an additional \$1 charge, could be avoided or at least minimized. We would not be opposed to dropping the optional charge as long as the oil marketers association could agree.

Your support of Senate Bill 298 in committee and on the floor would be appreciated.

a:sb298h

Attach. 1

ADVISORY COMMITTEE ON EMPLOYMENT
OF THE HANDICAPPED1430 S.W. Topeka Avenue, Topeka, Kansas 66612-1877
913-232-7828 (V/TDD) 567-0828 KANS-A-N

Testimony regarding Senate Bill 192
Presented to the House Transportation Committee
by Ray Petty, Legislative Liaison, KACEH *RP*
March 23, 1987

I only have one comment on this bill and that is that I want to share the concern of persons who have sun-sensitive diseases such as lupus, that should a sun-screening device be needed for them which does not meet the general requirements in this bill, that a medical waiver be allowed. I know this issue was raised last year in House Bill 2755 and that this committee heard that testimony. As I have not been contacted this year on this issue, this concern may have already been taken into consideration. But since I cannot interpret the jargon on page 2 of the bill regarding "AS1 line" and "light transmission of not less than 35%" and "safety standard No. 205", I did want to bring this concern to your attention.

Last years bill, by the way, had a transmission gradient of not less than 80% with a waiver while this year's bill has 35% without a waiver.

Thank you for considering this issue.

a:sb192h

SUMMARY OF TESTIMONY

Before the House Transportation Committee

March 23, 1987

Presented by the Kansas Highway Patrol

(Sergeant Bob Giffin)

Senate Bill 192

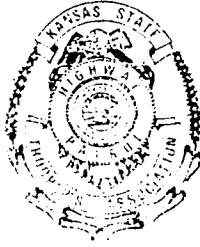
Senate Bill 192 contains provisions which are both desirable and undesirable from a law enforcement viewpoint.

This act provides clarity to the statute concerning one way glass and other applications (K.S.A. 8-1749a) by setting a clearly definable and enforceable standard, i.e. 35% light transmission, which must be met to be legal. The "guess work" brought about by the current language of "substantially impairs" would be removed. A law enforcement officer could readily identify whether or not the window application meets the requirement of state statute through the use of a simple template used for comparison purposes. Other states, such as Texas, have gone one step further and required the installer to place a permanent label between the film and window which certifies the sun screening device as not less than 35% light transmission. Briefly stated, the benefits of this bill are as follows:

1. The general public, law enforcement, and the courts are aided in the respect that each would know what is legal.
2. Uniform enforcement by police is provided as a result of clarification in the language of the statute. The statute would no longer be subject to individual interpretation.

Officer safety is still a concern of paramount importance. Ultimately, we would prefer that all window applications be illegal; however, we realize that this approach is not very realistic. The state has done all it reasonably can to assure an officer's safety during a traffic stop. Yet, the fact remains that an officer is virtually unprotected in this situation. We are at the mercy of the motorist each and every time we walk up to the vehicle. Traffic stops are high risk situations for law enforcement, representing 16% of the officers killed in the line of duty during calendar year 1986.

This problem is compounded when an officer is unable to see a potential threat because of an obstructed view of the vehicle occupants.



KANSAS STATE TROOPERS ASSOCIATION

EXECUTIVE DIRECTOR March 9, 1987

LARRY MOSSMAN
316-221-9500
Box 195
Winfield, Ks. 67156

RE: SUN SCREENING - S.B. 192

EXECUTIVE BOARD

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RAY BAILIFF
PRESIDENT
913-727-3424
Leavenworth, Ks. 66048

TO: Chairman Rex Crowell - House Transportation Committee

Trooper

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Topeka, Ks. 66614

Trooper

MIKE ANDROES

SGT. AT ARMS

McPherson, Ks. 67460

Senate Bill 192 - 35% Sun Screening for motor vehicle may be coming before your committee in the near future.

I HAVE TWO CONCERNS:

#1: OFFICER SAFETY - can an officer under all conditions - day or night - see into a vehicle with 35% screening? Can the officer see a gun?

#2: How much does 35% screening reduce a drivers ability to see out of a vehicle at night? Will the driver of a vehicle be able to see hazards approaching from the left and right as well? Can the driver see to back the vehicle safely at night?

DIVISION DIRECTORS

Trooper
LARRY OCHS
DIVISION ZERO
Ottawa, Ks. 66067

Trooper
JAMES PAULY
DIVISION ONE
Wamego, Ks. 66547

Trooper
DAVID OLLENBERGER
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Trooper
CHARLES WANAMAKER
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Trooper
GARY HARKNESS
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Larned, Ks. 67550

Trooper
BILL BROCKMAN
DIVISION SEVEN
Topeka, Ks. 66610

Trooper
TERRY MAPLE
DIVISION EIGHT
Wakarusa, Ks. 66546

Trooper
MICHAEL BACKUS
DIVISION NINE
Bonner Springs, Ks. 66012

The Kansas Highway Patrol and the Kansas State Troopers Association are planning to conduct some night tests in the near future on 35% screening. We want to determine the effects under actual night-time conditions. I would ask that you consider our results before moving this bill. If this law goes and it turns out to be unsafe, it will be hard to go back.

A handwritten signature in black ink, appearing to read "Ray Bailiff".

Ray Bailiff
President, KSTA

Mid States Port Authority

McDill "Huck" Boyd, Chairman
Ray Nelson, Vice-Chairman
John Golden, Secretary
Richard Spencer, Treasurer

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Marion Patton
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Darrel Westervelt

March 20, 1987

Jerry Link, Assistant Treasurer
T. L. Green, General Counsel

Representative Rex Crowell, Chairman
Room 431-N Capitol Building
Topeka, Kansas 66612

Re: House Bill 2465

Dear Representative Rex:

On Monday, March 23, 1987 the House Transportation Committee will hear House Bill 2465. I would ask that you review the correspondence previously provided you explaining the need for this legislation and generally describing the Mid States Port Authority. As time is late the Authority is asking you and the House Transportation Committee to consider this bill favorably, soon.

In your consideration of this legislation the Authority would ask that you amend Section Two of the Bill inserting the language from Senate Bill 375 concerning the application of the Tort Claims Act to the Authority. The adoption of this amendment this Session of the Legislature is imparitive. The Sedgwick County District Court recently ruled that the Tort Claims Act does not apply to the Authority. Though the Authority disagrees and has appealed that decision the language relied upon by the district court is that phrase which the Authority has requested be removed in House Bill 2465 at lines 127 and 128.

You, being an elected official, can understand the importance of the protections provided by the Tort CLaims Act. The Board of Directors of the Authority are appointed by the several counties which make up the Authority. They serve without pay and provide an essential government function, as the Port Authority Statute recites. The real protection afforded by the application of the Tort CLaims Act to the Authority is that afforded for those decisions made at Board

Att. 5

Representative Crowell

Page 2

March 20, 1987

meetings as part of the discretionary functioning of the Authority. As the Authority leased its property to entities not subject to the protection of the Tort Claims Act, the problem of an employee or third party being denied recovery for a casualty loss does not arise. There is insurance to cover any such loss. There is not insurance covering the Authority for acts of its officers and directors, attempts to purchase this type of insurance have been unsuccessful for the simple reason that no company would write this type of coverage for the Board of Directors.

A reading of the Tort Claims Act makes it clear that the Authority was within the definition of "Governmental entity." Governmental entity is defined as a state or municipality and municipality is defined as "any county . . . or any agency, authority, institution or other instrumentality thereof." The problem arises when considering that the Tort Claims Act was adopted about ten years after the adoption of the Port Authority Act. The Authority has little doubt that it was intended to be included in the Tort Claims Act. The language referred to above creates a contradiction. This amendment would remove the contradiction.

The Authority urges the amendment and favorable passage to the House of House Bill 2465.

Sincerely,

T. L. Green



KANSAS GRAIN & FEED DEALERS

Association

1722 NORTH PLUM, BOX 949

A/C 316 662-7911

HUTCHINSON, KANSAS 67504-0949

STATEMENT OF THE
KANSAS GRAIN AND FEED DEALERS ASSOCIATION
TO THE
HOUSE TRANSPORTATION COMMITTEE
REPRESENTATIVE REX CROWELL, CHAIRMAN
REGARDING H.B. 2465
MARCH 23, 1987

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I AM CHRIS WILSON, DIRECTOR OF GOVERNMENTAL RELATIONS OF THE KANSAS GRAIN AND FEED DEALERS ASSOCIATION (KGFDA). OUR MEMBERS CONSTITUTE THE STATE'S GRAIN WAREHOUSING AND MERCHANDISING INDUSTRY.

THANK YOU FOR THE OPPORTUNITY TO COMMENT ON H.B. 2465, REGARDING PORT AUTHORITIES. WE SUPPORT THE BILL; THE SPECIFIC SECTION WHICH WOULD AFFECT THE GRAIN INDUSTRY IS SECTION 6 (B), ON PAGE 10 OF THE BILL, LINES 0354 THROUGH 0359.

THIS SECTION WOULD ALLOW A PORT AUTHORITY TO SELL PROPERTY BY PUBLIC BID OR THROUGH NEGOTIATION. SOMETIMES, THE LAND ON WHICH A GRAIN WAREHOUSE FACILITY IS LOCATED BELONGED TO THE RAILROAD AND SUBSEQUENTLY BECOMES THE PROPERTY OF A PORT AUTHORITY. WHILE SUCH GRAIN FIRMS CERTAINLY WOULD EXPECT TO PAY A COMPETITIVE PRICE FOR THE LAND ON WHICH THEY RESIDE, THEY NEED TO HAVE THE OPPORTUNITY TO PURCHASE THE LAND FOR SUCH A PRICE. THIS SECTION OF H.B. 2465 WOULD PROVIDE GREATER LIKELIHOOD THAT THEY WOULD HAVE THAT OPPORTUNITY. THIS COULD AVOID A SITUATION WHICH OCCURRED IN IOWA WHERE LAND UNDER GRAIN WAREHOUSES WAS SOLD TO A THIRD PARTY WITHOUT THE GRAIN FIRMS HAVING THE OPPORTUNITY TO NEGOTIATE OR INCREASE THEIR BIDS. OBVIOUSLY, HAVING A THIRD PARTY OWNER OF THE LAND ON WHICH SUCH VALUABLE BUILDINGS REST POSES A MAJOR PROBLEM FOR A GRAIN FIRM.

THEREFORE, WE SUPPORT H.B. 2465 AND REQUEST YOUR FAVORABLE CONSIDERATION OF THE BILL.



Attach. 6