

Approved September 19, 1988
Date

MINUTES OF THE House COMMITTEE ON Transportation

The meeting was called to order by Rex Crowell at
Chairperson

1:30 ~~am~~/p.m. on March 2, 1988 in room 519-S of the Capitol.

All members were present except: Representative Laird

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
Mr. Tom Skinner, Kansas Department of Revenue
Mr. Mark Whitaker, Kansas Department of Revenue

The meeting was called to order by Chairman Crowell, and the first order of business was a hearing on HB-3073 designating a portion of United States Highway 81 as the Frank Carlson Memorial Highway.

Mr. Ed DeSoignie, Kansas Department of Transportation, testified in support of HB-3073.

He said should the bill be enacted as introduced, costs for signing the route identified in the bill would be approximately \$650 in material costs. (See Attachment 1)

The hearing on HB-3073 ended.

A motion was made by Representative Dillon that HB-3073 be recommended favorable for passage and placed on the consent calendar. The motion was seconded by Representative Sallee. Motion carried.

The next bill taken up was HB-2988 concerning a symbol to be attached to motor vehicles driven by the deaf and hearing impaired.

A balloon explaining amendments suggested by the subcommittee on HB-2988, was distributed among Committee members. (See Attachment 2)

A motion was made by Representative Sallee that the suggested subcommittee amendments be adopted. The motion was seconded by Representative Wilbert. Motion carried.

A motion was made by Representative Sallee that HB-2988 be recommended favorable for passage as amended. The motion was seconded by Representative Justice. Motion carried.

The next bill taken up was HB-2791 concerning certain speeding violations being a part of the public record.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation

room 519-S, Statehouse, at 1:30 ~~am~~/p.m. on March 2, 1988

A motion was made by Representative Wilbert that HB-2791 be tabled. The motion was seconded by Representative Adam. Motion carried.

The next bill taken up was HB-2716 concerning child passenger safety.

Representative Snowbarger explained amendments suggested by the subcommittee. (See Attachment 3)

A motion was made by Representative Snowbarger that the amendments in the balloon recommended by the subcommittee be adopted. The motion was seconded by Representative Empson.

A substitute motion was made by Representative Moomaw to delete the new language in lines 39 through 42, pertaining to pickups. The motion was seconded by Representative Smith.

Substitute motion passed 8-7 on a division.

A motion was made by Representative Spaniol that an amendment be added to HB-2716 that failure to use child safety restraints not be counted as a moving violation, but to retain provisions allowing a driver to be stopped independently of being stopped for some other violation. The motion was seconded by Representative Moomaw. Motion carried.

A motion was made by Representative Wilbert that HB-2716 be tabled. The motion was seconded by Representative Sallee. Motion failed 11-7 on a division.

A motion was made by Representative Gross that HB-2716 be tabled. The motion was seconded by Representative Wilbert. Motion failed 9-8 on a division.

A motion was made by Representative Snowbarger that provisions of the balloon be adopted, less the "pickup truck" provisions. Also, to retain the Spaniol amendment that failure to use child safety restraints not be a moving violation. The motion was seconded by Representative Adam.

A substitute motion was made by Representative Shore that the amendments in the balloon be adopted less the "pickup truck" provisions, and also deleting provisions requiring this be applicable to the rear seat. The motion was seconded by Representative Sallee.

Substitute motion failed 11-7 on a division.

A ^{substitute} motion was made by Representative Wilbert to table HB-2716. The motion was seconded by Representative Gross. The motion failed 10-9 on a division.

A substitute motion was made by Representative Adam to adopt the subcommittee amendments except that the provisions not apply to farm trucks. The substitute motion was seconded by Representative Russell. Motion failed.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,
room 519-S, Statehouse, at 1:30 ~~xx~~m./p.m. on March 2, 1988

A motion was made by Representative Wilbert that HB-2716 be tabled and recommended for interim study. The motion was seconded by Representative Sutter. Motion failed 10-9 on a division.

A vote was taken on the original motion by Representative Snowbarger. Motion carried.

A motion was made by Representative Snowbarger that HB-2716 be recommended favorable for passage as amended. The motion was seconded by Representative Adam. Motion carried.

The next bill taken up was HB-2600 concerning the operation of motor carrier inspection stations.

A motion was made by Representative Shore that HB-2600 be recommended favorable for passage.

Staff said there were technical amendments needed on HB-2600. These would restore references to the Secretary of Revenue and adjust the dates where necessary since the bill was originally introduced in the 1987 session.

A substitute motion was made by Representative Moomaw that the technical amendments be made on HB-2600. The motion was seconded by Representative Sutter. Motion carried.

A motion was made by Representative Shore that HB-2600 be recommended favorable for passage as amended. The motion was seconded by Representative Snowbarger.

Mr. Harley T. Duncan, Secretary of Revenue, outlined some technical amendments, and said Lines 678-692 should not be changed, and remain "Secretary of Revenue". He also said that in Line 269 after the word "vehicle" insert "or Superintendent of Highway Patrol".

A substitute motion was made by Representative Snowbarger that HB-2600 be amended as suggested by Secretary Duncan. The substitute motion was seconded by Representative Sallee. Motion carried.

A motion was made by Representative Shore that HB-2600 be recommended favorable as further amended, for passage. The motion was seconded by Representative Snowbarger. Motion carried.

The next bill taken up was HB-3065 concerning the filing of monthly reports under the Vehicle Dealers and Manufacturers Licensing Act.

Mr. Tom Skinner, Revenue Department, Division of Vehicles, introduced Mr. Mark Whitaker, also of Kansas Department of Revenue, to propose an amendment for HB-3065.

Chairman Crowell suggested the proposed amendment represented a substantial policy consideration and should be introduced as a separate bill.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,
room 519-S, Statehouse, at 1:30 ~~xxx~~/p.m. on March 2, 1988

A motion was made by Representative Dillon that language be amended into HB-3065 which would allow up to two vehicles per month to be sold without having to file reports with the state of Kansas. The motion was seconded by Representative Moomaw. Motion carried.

A motion was made by Representative Dillon that HB-3065 be recommended favorable as amended, for passage. The motion was seconded by Representative Wilbert. Motion carried.

The next bill taken up was HB-2745 relating to train speeds passing through municipalities.

Representative Freeman discussed amendments to HB-2745 described in a balloon. (See Attachment 4)

A motion was made by Representative Freeman that amendments in the balloon be adopted into HB-2745. The motion was seconded by Representative Gross. Motion carried.

A motion was made by Representative Freeman that HB-2745 be recommended favorable as amended, for passage. The motion was seconded by Representative Sallee.

A ^{substitute} motion was made by Representative Adam that HB-2745 be tabled. The motion was seconded by Representative Justice. Motion failed.

The original motion to recommend HB-2745 as amended favorable for passage, carried.

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


Rex Crowell, Chairman

STATE OF KANSAS



KANSAS DEPARTMENT OF TRANSPORTATION

*Docking State Office Building
Topeka 66612-1568
(913) 296-3566*

Horace B. Edwards
Secretary of Transportation

March 2, 1988

Mike Hayden
Governor of Kansas

MEMORANDUM TO: House Transportation Committee

FROM: The Kansas Department of Transportation

REGARDING: House Bill 3073

House Bill No. 3073 by Committee on Appropriations, was introduced at the request of Governor Hayden, to designate a portion of United States Highway 81 as the Frank Carlson Memorial Highway. United States Highway 81 would be designated as the Frank Carlson Memorial Highway from the Kansas-Nebraska state line, south to the U.S. 81 and Interstate 70 junction at Salina.

Should House Bill No. 3073 be enacted as introduced, costs for signing the route identified in the bill would be approximately \$650 in material costs. This estimate does not include any costs attributed to either shop labor or equipment usage which may be required to sign the route. It is anticipated that signing costs would not result in expenditures over and above the Governor's budget recommendations for Fiscal Year 1989 for the Kansas Department of Transportation.

Gene Crowell

Attach. 1

HOUSE BILL No. 2988

By Committee on Transportation

2-19

0017 AN ACT providing for a symbol to be attached to motor vehicles
0018 driven by the deaf and hearing impaired.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. (a) As used in this section, "commission" means
0021 the Kansas commission for the deaf and hearing impaired.

0022 (b) The commission shall design and provide for the issuance
0023 of a symbol or other device that may be attached to a motor
0024 vehicle regularly operated by a deaf or hearing impaired person.

0025 (c) A deaf or hearing impaired person may apply to the
0026 commission for the symbol or other device. The commission may
0027 require acceptable medical proof that a person is deaf or hearing
0028 impaired. The commission may collect a fee not to exceed \$2 for
0029 each symbol or device.

0030 (d) The commission may contract with a state or local agency
0031 for the distribution of the symbol or other device.

0032 Sec. 2. This act shall take effect and be in force from and
0033 after its publication in the statute book.

The symbol may be attached to the lower left corner of the rear window of a motor vehicle, if the symbol does not exceed a width of five inches and a height of five inches; or the symbol may be attached to the rear bumper of a motor vehicle.

(e) The commission shall provide law enforcement agencies in the state an explanation of the meaning of the symbol to be issued by the commission prior to the issuance of such symbol.

A-1-2

HOUSE BILL No. 2716

By Committee on Public Health and Welfare

1-28

Attach. 3

0017 AN ACT concerning child passenger safety; amending K.S.A.
0018 1987 Supp. 8-1344, 8-1345, 8-1347 and 8-2503 and repealing
0019 the existing sections.

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

0021 Section 1. K.S.A. 1987 Supp. 8-1344 is hereby amended to
0022 read as follows: 8-1344. Every parent or legal guardian of a child
0023 under the age of four years who resides in this state, and who is
0024 transporting such child in the front seat area of driver as defined
0025 in K.S.A. 8-1416 and amendments thereto who transports a child
0026 under the age of ~~four~~ years in a passenger car as defined in K.S.A.
0027 8-1445 and amendments thereto or in a pickup truck as defined
0028 in this section on a highway as defined in K.S.A. 8-1424 and
0029 amendments thereto, shall provide for the protection of such
0030 child by properly using ~~a~~ child passenger safety restraining
0031 system of a type approved under this act. This act shall not apply
0032 to transportation of children in vehicles registered in another
0033 state, nor to transportation in a temporary substitute vehicle. The

0034 secretary of transportation shall adopt rules and regulations for
0035 the performance, design and installation of child passenger
0036 safety restraining systems for use in passenger cars for children
0037 under the age of ~~four~~ ~~four~~ years, in accordance with federal motor
0038 vehicle safety standards, and shall approve those systems which
0039 meet such standards. As used in this section, "pickup truck"
0040 means a truck registered for a gross weight of ~~less than~~ 12,000
0041 pounds ~~for a farm truck registered for a gross weight of more~~
0042 ~~than 12,000 pounds and not more than~~ 16,000 pounds.

0043 Sec. 2. K.S.A. 1987 Supp. 8-1345 is hereby amended to read
0044 as follows: 8-1345. (a) It shall be unlawful for any parent or legal
0045 guardian of a child under the age of four years driver to violate

14

: (a) For a child under the age of four years a child passenger

; or (b) for a child four years of age but under the age of 14, a safety belt manufactured in compliance with federal motor vehicle safety standard no. 208, except that if the number of children subject to this requirement exceeds the number of passenger securing locations available for use by children affected by this requirement, and all of those securing locations are in use by children, then there is not a violation of this section

child passenger

four

or less

or less

0046 the provisions of K.S.A. 8-1344, and amendments thereto, and
0047 upon conviction ~~such driver shall be punishable~~ ~~punished~~ by a
0048 fine of \$10 per occurrence ~~to \$25 for the first offense and \$50 for~~
0049 ~~the second and each subsequent offense.~~

\$20. The failure to provide a child safety restraining system or safety belt for more than one child in the same passenger car or pickup truck at the same time shall be treated as a single violation

0050 (b) The fine provided for in subsection (a) and court costs
0051 assessed under K.S.A. 28-172a and amendments thereto shall be
0052 waived if the ~~parent or legal guardian~~ driver charged with
0053 violating ~~K.S.A. 8-1344 and amendments thereto~~ provides proof
0054 prior to trial that such ~~parent or legal guardian~~ driver has pur-
0055 chased or acquired an approved child safety restraining system.

subsection (a) of

child passenger

0056 (c) No ~~parent or legal guardian~~ driver charged with violating
0057 the provisions of this act shall be convicted if such ~~parent or legal~~
0058 ~~guardian~~ driver produces in the office of the arresting officer or
0059 in court proof that the child ~~is four~~ was ~~10~~ years of age or older at
0060 the time the violation was alleged to have occurred.

14

0061 Sec. 3. K.S.A. 1987 Supp. 8-1347 is hereby amended to read
0062 as follows: 8-1347. The secretary of transportation shall develop
0063 a program of public education to promote the use of ~~child~~
0064 ~~passenger~~ safety restraining systems ~~for children~~. As part of this
0065 program, the Kansas department of transportation shall make
0066 available to law enforcement officers for dissemination, infor-
0067 mation concerning child passenger safety.

(d) Evidence of failure to secure a child in a child passenger safety restraining system or a safety belt under the provisions of K.S.A. 8-1344, and amendments thereto, shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.

child passenger

0068 Sec. 4. K.S.A. 1987 Supp. 8-2503 is hereby amended to read
0069 as follows: 8-2503. (a) Except as provided in K.S.A. 8-1344 and
0070 8-1345, and amendments thereto, and in subsection (b), each
0071 front seat occupant of a passenger car manufactured with safety
0072 belts in compliance with federal motor vehicle safety standard
0073 no. 208 shall have a safety belt properly fastened about such
0074 person's body at all times when the vehicle is in motion.

and safety belts

0075 (b) This section does not apply to: (1) An occupant of a
0076 passenger car who possesses a written statement from a licensed
0077 physician that such person is unable for medical reasons to wear
0078 a safety belt system; (2) carriers of United States mail while
0079 actually engaged in delivery and collection of mail along their
0080 specified routes; (3) newspaper delivery persons while actually
0081 engaged in delivery of newspapers along their specified routes;
0082 (4) an occupant of a passenger car required to be protected by a

0083 *safety restraining system under the child passenger safety act.*

0084 (c) The secretary of transportation shall initiate an educa-
0085 tional program designed to encourage compliance with the
0086 safety belt usage provisions of this act.

0087 (d) The secretary shall evaluate the effectiveness of this act
0088 and shall include a report of its findings in the annual evaluation
0089 report on its highway safety plan that it submits under 23 U.S.C.
0090 402.

0091 (e) Law enforcement officers shall not stop drivers for viola-
0092 tions of this act in the absence of another violation of law. A
0093 citation for violation of this act shall not be issued without citing
0094 the violation that initially caused the officer to effect the en-
0095 forcement stop.

0096 Sec. 5. K.S.A. 1987 Supp. 8-1344, 8-1345, 8-1347 and 8-2503
0097 are hereby repealed.

0098 Sec. 6. This act shall take effect and be in force from and
0099 after its publication in the statute book.

HOUSE BILL No. 2745

By Committee on Transportation

2-2

0017 AN ACT relating to train speeds; amending K.S.A. 12-1633,
0018 12-1634, 14-434 and 15-438 and repealing the existing sec-
0019 tions.

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

0021 Section 1. K.S.A. 12-1633 is hereby amended to read as fol-
0022 lows: 12-1633. The governing body of cities of the first and
0023 second class shall have the power to regulate the crossings of
0024 railway and street-railway tracks and provide precautions and
0025 ~~prescribe rules~~ regulating the same; ~~and~~ to regulate the running
0026 of street railways or cars and railway engines and cars ~~in the city,~~
0027 ~~and to prescribe rules~~ relating thereto and to govern the speed
0028 thereof; and to make other and further provisions, rules and
0029 regulations to prevent accidents at crossings and on tracks of
0030 railways, and to prevent fires from engines, and to require all
0031 railway companies to erect viaducts over or tunnels under their
0032 tracks at the crossings of streets.

0033 *From and after the effective date of this act, no rule, regula-*
0034 *tion or ordinance adopted by the governing body of any city of*
0035 *the first class or second class regulating the* ~~running of railway~~
0036 ~~engines and cars or governing the~~ speed ~~thereof~~ *shall be of any*
0037 *force or effect, and the same shall be and is hereby declared null*
0038 *and void.*

0039 The governing body shall have power to require any railroad
0040 company or companies owning or operating any railroad or
0041 street-railway track or tracks upon or across any public street or
0042 streets of the city to erect, construct, reconstruct, complete and
0043 keep in repair any viaduct or viaducts upon or over or tunnels
0044 under such street or streets and over or under any such track or
0045 tracks, including the approaches of such viaduct, viaducts or

[adopt ordinances

[and to adopt ordinances

[to regulate the running of railway engines and cars,
except speed, and to adopt ordinances relating thereto;

[part of any

[of railway engines and cars

The governing body of any city of the first class or second class, pursuant to K.S.A. 66-165, may initiate a complaint to the state corporation commission and seek an order regulating the speed of railway engines and cars. In accordance with the provisions of K.S.A. 66-165, its rules of procedure and other applicable law, the state corporation commission shall investigate the complaint, may conduct a hearing and, consistent with applicable law and rules and regulations of the federal railroad administration, issue its order.

Attach. 4

0016 tunnels as may be deemed and declared by the governing body
0017 to be necessary for the convenience, safety or protection of the
0018 public. Whenever any such viaduct shall be deemed and de-
0019 clared by ordinance to be necessary for the convenience, safety
0050 or protection of the public, the governing body shall provide for
0051 appraising, assessing and determining the damage, if any, which
0052 may be caused to any property by reason of the construction of
0053 such viaduct and its approaches. The proceedings for such pur-
0054 pose shall be the same as provided by law for the purpose of
0055 ascertaining and determining damages to property owners by
0056 reason of the change in grade of any street, except that such
0057 damage shall be paid by such railway company or companies.
0058 The amount of damage thus ascertained and awarded shall, upon
0059 notice by the city, be promptly paid by the railway company or
0060 companies interested and if any such company shall fail to pay
0061 the same within ten 10 days from receipt of notice of the amount
0062 thereof, then the amount so awarded shall become a lien in the
0063 proportion to the amount each railway company shall pay —, if
0064 more than one company is concerned —, upon the right-of-way
0065 and all property of such railway company and the collection
0066 thereof may be enforced by the city in an action against such
0067 railway company or companies so failing to pay. The width,
0068 height and strength of any such viaduct or tunnel and the
0069 approaches thereto, the material to be used therefor, and the
0070 manner of construction thereof, shall be as required by the
0071 governing body.

0072 When two or more railroad companies own or operate separate
0073 lines of track to be crossed by any such viaduct, either upon,
0074 above or below the grade, or where any street-railway company
0075 intersects and crosses the track or tracks of any railroad company,
0076 the proportion thereof and of the approaches thereto to be
0077 constructed by each, and the proportion of cost to be borne by
0078 each, shall be determined by the governing body. It shall be the
0079 duty of any railroad company or companies or street-railway
0080 company, upon being required, as herein provided, to erect,
0081 construct, reconstruct or repair any viaduct or tunnel, to proceed,
2 within the time and in the manner required by the governing

83 body, to erect, construct, reconstruct or repair the same, and it
 0084 shall be a misdemeanor for any railroad company or companies
 0085 or street-railway company to fail, neglect or refuse to perform
 0086 such duty, and upon conviction, any such company or companies
 0087 or the superintendent or other officer having charge of such
 0088 railway company or street railway in the district or division
 0089 where such viaduct or tunnel is to be erected or repaired, shall
 0090 be fined ~~one hundred dollars~~ \$100, or imprisoned in the county
 0091 jail not less than ~~thirty~~ 30 days, and each day such companies or
 0092 officers shall fail, neglect or refuse to perform such duty shall be
 0093 deemed and held a separate offense; and in addition to the
 0094 penalty herein provided any such company or companies shall
 0095 be compelled by mandamus or other appropriate proceedings to
 0096 erect, construct, reconstruct, or repair any viaduct or tunnel as
 0097 may be required by ordinance as herein provided.

0098 The governing body shall also have power, whenever any
 0099 railroad company or companies or street-railway companies shall
 0100 fail, neglect or refuse to erect, construct or reconstruct or repair
 0101 any viaduct, viaducts or tunnel, after having been required so to
 0102 do as herein provided, to proceed with the erection, construc-
 0103 tion, reconstruction or repair of the same by contract or in such
 0104 other manner as may be provided by ordinance and assess the
 0105 cost thereof against the property of such railroad company or
 0106 companies or street-railway company, and such cost shall be a
 0107 valid and subsisting lien against such property, and also shall be
 0108 a legal indebtedness of such company or companies in favor of
 0109 such city, and may be enforced and collected by suit in any court
 0110 having jurisdiction.

0111 Sec. 2. K.S.A. 12-1634 is hereby amended to read as follows:
 0112 12-1634. The governing body of all cities of the first and second
 0113 class in a county having a population of over 90,000 shall have
 0114 the power to regulate the crossings of railway and street-railway
 0115 tracks and provide precautions and ~~prescribe rules~~ regulating the
 0116 same; ~~and~~ to regulate the running of street railways or cars and
 0117 railway engines and cars ~~in the city~~ and ~~to prescribe rules~~
 relating thereto and to govern the speed thereof; ~~and to make~~
 0119 other and further provisions, rules and regulations to prevent

~~prescribe rules~~ [adopt ordinances

~~and~~ [and to adopt ordinances

~~and to make~~ [to regulate the running of railway engines and cars,
 except speed, and to adopt ordinances relating thereto;

20 fires from engines, and to require all railway companies to erect
0121 viaducts over or tunnels under their tracks at the crossings of
0122 streets.

0123 *From and after the effective date of this act, no rule, regula-*
0124 *tion or ordinance adopted by the governing body of any city of*
0125 *the first class or second class in a county having a population of*
0126 *over 90,000 regulating the ~~running of railway engines and cars~~*
0127 *or governing the speed thereof shall be of any force or effect,*
0128 *and the same shall be and is hereby declared null and void. The*
0129 *governing body shall have power to require any railroad com-*
0130 *pany or companies owning or operating any railroad or street-*
0131 *railway track or tracks upon or across any public street or streets*
0132 *of the city to erect, construct, reconstruct, complete and keep in*
0133 *repair any viaduct or viaducts upon or over or tunnels under such*
0134 *street or streets and over or under such tracks, including the*
0135 *approaches of such viaduct, viaducts or tunnels as may be*
0136 *deemed and declared by ordinance to be necessary for the*
0137 *convenience, safety or protection of the public.*

0138 Whenever any such viaduct shall be deemed and declared by
0139 ordinance to be necessary for the convenience, safety or protec-
0140 tion of the public, the governing body shall provide for apprais-
0141 ing, assessing and determining the damage, if any, which may be
0142 caused to any property by reason of the construction of such
0143 viaduct and its approaches. The proceedings for such purpose
0144 shall be the same as provided by law for the purpose of ascer-
0145 taining and determining damages to property owners by reason
0146 of the change in grade of any street, except that such damage
0147 shall be paid by such railway company or companies. The
0148 amount of damage thus ascertained and awarded shall, upon
0149 notice by the city, be promptly paid by the railway company or
0150 companies interested, and if any such company shall fail to pay
0151 the same within ten 10 days from receipt of notice of the amount
0152 thereof, then the amount so awarded shall become a lien in the
0153 proportion to the amount each railway company shall pay, if
more than one company is concerned, upon the right-of-way and
all property of such railway company, and the collection thereof
0156 may be enforced by the city in an action against such railway

[part of any

[of railway engines and cars

The governing body of any city of the first or second class in a county having a population of over 90,000, pursuant to K.S.A. 66-165, may initiate a complaint to the state corporation commission and seek an order regulating the speed of railway engines and cars. In accordance with the provisions of K.S.A. 66-165, its rules of procedure and other applicable law, the state corporation commission shall investigate the complaint, may conduct a hearing and, consistent with applicable law and rules and regulations of the federal railroad administration, issue its order.

.57 company or companies so failing to pay. The width, height and
0158 strength of any such viaduct or tunnel and the approaches
0159 thereto, the material to be used therefor, shall be as required by
0160 the governing body.

0161 When two or more railroad companies own or operate separate
0162 lines of track to be crossed by any such viaduct, either upon,
0163 above or below the grade, or where any street-railway company
0164 intersects and crosses the track or tracks of any railroad company,
0165 the proportion thereof and of the approaches thereto to be
0166 constructed by each, and the proportion of cost to be borne by
0167 each, shall be determined by the governing body. It shall be the
0168 duty of any railroad company or companies or street-railway
0169 company, upon being required, as herein provided, to erect,
0170 construct, reconstruct or repair any viaduct or tunnel, to proceed,
0171 within the time and in the manner required by the governing
0172 body to erect, construct or reconstruct or repair the same, and it
0173 shall be a misdemeanor for any railroad company or companies
0174 or street-railway company to fail, neglect or refuse to perform
0175 such duty, and upon conviction, any such company or companies
0176 or the superintendent or other officer having charge of such
0177 railway company or street railway in the district or division
0178 where such viaduct or tunnel is to be erected or repaired shall be
0179 fined one hundred dollars, and each day such companies or
0180 officers shall fail, neglect or refuse to perform such duty shall be
0181 deemed and held a separate offense; and in addition to the
0182 penalty herein provided, any such company or companies shall
0183 be compelled by mandamus or other appropriate proceedings to
0184 erect, construct, reconstruct or repair any viaduct or tunnel as
0185 may be required by ordinance as herein provided.

0186 The governing body shall also have power, whenever any
0187 railroad company or companies or street-railway companies shall
0188 fail, neglect or refuse to erect, construct or reconstruct or repair
0189 any viaduct, viaducts or tunnel, after having been required so to
0190 do as herein provided, to proceed with the erection, construc-
0191 tion, reconstruction or repair of the same by contract, or in such
0192 other manner as may be provided by ordinance, and assess the
0193 cost thereof against the property of such railway company or

0194 companies or street-railway company, and such cost shall be a
 0195 valid and subsisting lien against such property, and also shall be
 0196 a legal indebtedness of such company or companies in favor of
 0197 such city, and may be enforced and collected by suit in any court
 0198 having jurisdiction. Or in lieu of enforcing the collection of the
 0199 costs of ~~said~~ such improvement by a suit at law, the city may
 0200 issue internal improvement bonds of the city as provided by law
 0201 to pay for ~~said~~ such work, and special assessments shall be levied
 0202 against the property of such railroad company or companies or
 0203 street railway as above provided to pay ~~said~~ such bonds and
 0204 interest.

0205 Sec. 3. K.S.A. 14-434 is hereby amended to read as follows:
 0206 14-434. The council shall have power to regulate levees, depots,
 0207 depot grounds, and places of storing freight and goods, and to
 0208 provide for the passage of railways through the streets and public
 0209 grounds of the city; also to regulate the crossings of railway
 0210 tracks and to provide precautions and ~~prescribe rules~~ regulating
 0211 the same; and to regulate the running of railway engines, cars
 0212 and tracks within the limits of said city; and to prescribe rules
 0213 relating thereto; and to govern the speed thereof; and to make
 0214 any other and further provisions, rules and restrictions to prevent
 0215 accidents at crossings, and on the tracks of railways, and to
 0216 prevent fires from engines.

0217 *From and after the effective date of this act, no rule, regula-*
 0218 *tion or ordinance adopted by the council regulating the* ~~running~~
 0219 *of railway engines and cars or governing the* speed ~~thereof~~ shall
 0220 *be of any force or effect, and the same shall be and is hereby*
 0221 *declared null and void.*

0222 Sec. 4. K.S.A. 15-438 is hereby amended to read as follows:
 0223 15-438. The council shall have power to regulate levees, depots,
 0224 depot grounds and places for storing freight and goods, and to
 0225 provide for the passage of railways through the streets and public
 0226 grounds of the city; also, to regulate the crossings of railway
 0227 tracks, and to provide precautions and ~~prescribe rules~~ regulating
 8 the same; and to regulate the running of railway engines, cars
 0229 and tracks within the limits of said city; and to prescribe rules
 0230 relating thereto; and to govern the speed thereof; and to make

[adopt ordinances

[to regulate the running of railway engines and cars, except speed, and to adopt ordinances relating thereto;

[part of any

[of railway engines and cars

The council, pursuant to K.S.A. 66-165, may intitate a complaint to the state corporation commission and seek an order regulating the speed of railway engines and cars. In accordance with the provisions of K.S.A. 66-165, its rules of procedure and other applicable law, the state corporation commission shall investigate the complaint, may conduct a hearing and, consistent with applicable law and rules and regulations of the federal railroad administration, issue its order.

[adopt ordinances

[to regulate the running of railway engines and cars, except speed, and to adopt ordinances relating thereto;

0231 any other and further provisions, rules and restrictions to prevent
0232 accidents at crossings and on the tracks of railways, and to
0233 prevent fires from engines.

0234 From and after the effective date of this act, no rule, regula-
0235 tion or ordinance adopted by the council regulating the ~~running~~
0236 ~~of railway engines and cars as governing the~~ speed ~~thereof~~ shall
0237 be of any force or effect, and the same shall be and is hereby
0238 declared null and void.

[part of any

[of railway engines and cars

0239 Sec. 5. K.S.A. 12-1633, 12-1634, 14-434 and 15-438 are
0240 hereby repealed.

0241 Sec. 6. This act shall take effect and be in force from and
0242 after its publication in the statute book.

The council, pursuant to K.S.A. 66-165, may initiate a complaint to the state corporation commission and seek an order regulating the speed of railway engines and cars. In accordance with the provisions of K.S.A. 66-165, its rules of procedure and other applicable law, the state corporation commission shall investigate the complaint, may conduct a hearing and, consistent with applicable law and rules and regulations of the federal railroad administration, issue its order.