

Approved 3/16/89 Date _____

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

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

9:02 a.m./~~p.m.~~ on March 15, 1989 in room 254-E of the Capitol.

All members were present ~~except~~.

Committee staff present:

Hank Avila, Legislative Research Department
Ben Barrett, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
Louise Cunningham, Committee Secretary

Conferees appearing before the committee:

The Chairman recognized former State Senator Joe Warren, who was visiting today.

Hank Avila briefed the committee on all the House Bills now in committee. A copy of his Memorandum dated March 15, 1989 is attached. (Attachment 1). The committee discussed each bill as it was presented.

A motion was made by Sen. Hayden to approve the Minutes of March 3 and March 6, 1989. Motion was seconded by Sen. Vidricksen. Motion carried.

Meeting was adjourned at 10:00 a.m.

MEMORANDUM

March 15, 1989

TO: Senate Transportation and Utilities Committee

FROM: Kansas Legislative Research Department

RE: House Bills assigned to Committee

H.B. 2015 (By House Committee on Transportation As Amended
by House Committee on Transportation)

H.B. 2015 relates to parts used in the repair of motor vehicles.

Major provisions of the bill: (1) define aftermarket parts as sheet metal or plastic parts which are not made by the original manufacturer and which generally constitute the exterior or provide support for the exterior of a motor vehicle, including inner and outer panels; (2) define insurer to include any person authorized to represent the insurer with respect to a claim; (3) prohibit an insurer from requiring the use of aftermarket parts in the repair of motor vehicles unless the parts are at least equal in quality to the original part in terms of fit and performance; and (4) require a person who prepares an estimate of the cost of motor vehicle repairs to disclose to the owner of the vehicle information which informs the consumer that the estimate is based on the use of nonoriginal equipment manufacturer parts and that such parts are at least equal in terms of fit and performance to the original manufactured parts.

Violation by insurers is enforced by the Insurance Department under K.S.A. 40-2404. The Attorney General has jurisdiction to enforce the disclosure requirements under the provisions of the Consumer Protection Act, except as it applies to an insurer.

H.B. 2053 (By Representative Empson As Amended
by House Committee of the Whole)

H.B. 2053 would mandate that the operator of every watercraft require every person 12 years of age or under to wear a United States Coast Guard-approved Type I, Type II, or Type III personal flotation device while aboard or being towed by such vessel. A life belt, ring, or throwable cushion would not satisfy the requirements of the act. Violation of this requirement would be a class C misdemeanor.

H.B. 2055 (By Committee on Taxation As Amended
by House Committee of the Whole)

H.B. 2055 exempts from the Liquefied Petroleum Motor Fuel Tax law bulk sales of LP-gas purchased for use by municipally-owned vehicles used primarily for law enforcement purposes.

ATT. 1
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H.B. 2066 (By Committee on Transportation As Amended
by House Committee on Transportation)

H.B. 2066 relates to motor vehicle warranties. The bill amends the current Kansas Lemon Law by:

1. granting the Attorney General jurisdiction to enforce the provisions of the Kansas Lemon Law;
2. allowing the use of the Lemon Law through a private attorney; and
3. replacing a federal U.S. Department of Transportation publication referenced in the current law entitled "Cost of Owning and Operating Automobiles and Vans," with a publication entitled "Your Driving Costs," published by the American Automobile Association.

H.B. 2104 (By Committee on Energy and Natural Resources
As Recommended by House Committee on Energy
and Natural Resources)

H.B. 2104 clarifies that during consolidations or mergers of electric cooperatives that voting by the members of the electric cooperatives involved may be by mail ballot or by proxy.

H.B. 2119 (By Representative Empson As Amended
by House Committee on Transportation)

H.B. 2119 provides for the transfer of personalized license plate to a spouse, son, or daughter when the title to the original vehicle also is being transferred to one of these family members. The fee for this transfer is \$1.50.

H.B. 2159 (By Representatives Heinemann and Lowther As
Amended by House Committee on Transportation)

H.B. 2159 mandates that empty trailers or semitrailers otherwise used for hauling livestock comply with the requirement of law that the vehicle be constructed or loaded to prevent any of its load from dropping, sifting, leaking, or otherwise escaping therefrom.

(Currently, this requirement does not apply to the operation of trailers and semitrailers hauling livestock if such vehicles are equipped with a clean-out and the trap is in a closed position.)

H.B. 2174 (By Representative Dillon As Amended
by House Committee of the Whole)

H.B. 2174 would authorize a distinctive license plate to be issued to survivors of the attack on Pearl Harbor. Persons requesting such plates would be required to submit satisfactory proof to the Director of Vehicles, demonstrating that the applicant:

1. was a member of the U.S. Armed Forces on December 7, 1941;

2. was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m. Hawaii time at Pearl Harbor, the Island of Oahu, or not more than three miles offshore therefrom;
3. was honorably discharged; and
4. has been approved by the chairperson of the Kansas Survivors Association as being a survivor of the attack on Pearl Harbor.

The act would be effective on January 1, 1990.

H.B. 2177 (By Representative Everhart et al. As Amended
by House Committee on Transportation)

H.B. 2177 exempts from motor vehicle registration mobile homes and travel trailers used as living quarters and not operated on the highway.

H.B. 2192 (By Representatives Bryant and Crowell As
Amended by House Committee of the Whole)

H.B. 2192 requires the Kansas Department of Transportation on and after July 1, 1990 to install rumble strips at all railroad crossings located on highways which are part of the state highway system and protected only by signs in the form of crossbucks. The rumble strips must be placed to provide sufficient warning of an approaching railroad grade crossing.

H.B. 2196 (By House Committee on Transportation As
Amended by House Committee on Transportation)

H.B. 2196 pertains to child passenger safety. The bill provides for the following:

1. Every driver who transports a child under the age of 14 years in a passenger car must provide for the protection of a child by properly using (a) for a child under the age of four years a child passenger safety restraining system 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, and all available locations are in use by children, there is not a violation. A \$20 fine is imposed for violating the above provisions.
2. Failure to provide a child safety restraining system or safety belt for more than one child in the same passenger car is treated as a single violation.
3. Evidence of failure to secure a child in a restraining system or safety belt is not admissible in an action for purposes of determining any aspect of comparative negligence or mitigation of damages.

4. An occupant of a passenger car required to be protected by a safety restraining system under the child passenger safety act is exempt under the seat belt law.
5. Failure by a driver to provide for the protection by using a child passenger restraining system for a child under the age of four years and for a child four years but under 14 years does not constitute a moving violation.

H.B. 2238 (By Representative Russell As Amended
by House Committee on Transportation)

H.B. 2238 imposes a class E felony penalty on persons who unlawfully sell, barter, or exchange a motor vehicle, trailer, or semitrailer on which the original vehicle identification number has been destroyed, removed, altered, or defaced when no part of such vehicle has been stolen and the vehicle identification number has been assigned to a motor vehicle.

H.B. 2320 (By Representative Hensley, et al. As Amended
by House Committee on Transportation)

H.B. 2320 provides that the Secretary of Transportation may designate state highway construction contracts or portions thereof to be set aside from competitive bids by disadvantaged business enterprises solely. The bill also allows the Secretary to adopt rules and regulations deemed necessary to carry out the provisions of the act.

This act contains a sunset provision of July 1, 2001.

H.B. 2328 (By Representative Roy As Amended by
House Committee of the Whole)

H.B. 2328 stipulates that a contract entered into by the Secretary of Transportation to perform work on a highway or a bridge located in an incorporated city abutting property which is zoned for commercial use and having a project completion time in excess of one month must contain incentive provisions for early completion of the contract and disincentive provisions for late completion of the contract. The provisions do not apply if federal restrictions would require otherwise.

H.B. 2483 (By Committee on Transportation As Amended
by House Committee of the Whole)

H.B. 2483 pertains to driver's licenses and addresses two specific issues, as described below:

A. Vision Examinations

H.B. 2483 sets standards for driver's license vision examinations. The bill requires driver's license examiners to use the following vision standards for driver's license applicants:

1. An applicant testing 20/40 or better in at least one eye at the examination station meets the vision requirements. The driver's license examiner must give an applicant failing to meet the test a vision form and refer the applicant to an ophthalmologist or optometrist of the applicant's choice.
2. An applicant who has received a vision report from an ophthalmologist or optometrist must have 20/60 or better vision in at least one eye, with or without corrective lens, in order to be issued a driver's license.
3. The license examiner must require a person with a reading of 20/60 in at least one eye, with or without corrective lens, to submit to a driver's test.
4. An applicant failing to meet the above standards may be issued a driver's license if the person can demonstrate that he or she can safely operate a vehicle and has had a good driving record for the previous three years. The Division may impose reasonable restrictions on such license.
5. An applicant failing to meet such standards will be afforded a hearing.

B. School Attendance and Completion

The bill denies a driver's license or instruction permit to persons under the age of 18 who, at the time of application, do not present a diploma or other certificate of graduation issued from a secondary school or documentation that the person:

1. is enrolled and making satisfactory progress in a course leading to a general educational development (GED) certificate from a state-approved institution or organization, or has obtained such certificate;
2. is enrolled in a secondary school in Kansas or any other state;
3. is excused from such requirement due to circumstances beyond such person's control.

The attendance director or principal must provide, upon request, documentation of enrollment status to any student 14 years of age or older who is properly enrolled in a school. This information is presented to the Division of Motor Vehicles with an application for or for reinstatement of an instruction permit or license to operate a motor vehicle. If a student 14 years of age or older withdraws from school, except when beyond the student's control, the attendance director or principal must notify the Division of Motor Vehicles of the withdrawal. Within five days of receipt of notice, the Division sends notice to the licensee that the license will be suspended on the 30th day following the date the notice was sent unless documentation of compliance is received by the Division before such time.

Withdrawal is defined as more than ten consecutive or 15 days total unexcused absences during a single semester. Suspension or expulsion from school or imprisonment in a jail or a penitentiary is not considered to be a circumstance beyond the control of such person.

The attendance director or principal does not notify the Division when withdrawal from school, failure to obtain a GED or high school diploma, or failure to enroll in a course leading to a GED or high school diploma is beyond the control of the student or is for the purpose of transfer to another school. If the student is applying for an instruction permit or a license, the attendance director or principal must provide the student with documentation to present to the Division to excuse the student. The school district superintendent or the appropriate school official of any private secondary school, with the assistance of any other staff or school personnel, is the sole judge of whether withdrawal is due to circumstances beyond the control of such person.