

Approved

4-26-89

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. ~~pm~~ on March 28, 1989 in room 254-E of the Capitol.

Members present:

Senators Morris, Francisco, Hayden, Kanan, F. Kerr, Martin, Rock, Sallee, Thiessen and Vidricksen.

Committee staff present:

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

Conferees appearing before the committee:

Dick Scott, State Farm Insurance
Pat Barnes, Kansas Car Dealers Association

The Chairman had distributed to the Committee copies of "Inside KDOT" March 1989, Vol. 12. (Attachment 1). He called attention to the article entitled "Reconstruction of an Alcohol-Related Accident".

The Chairman said there had been numerous requests over the past years for special license plates to groups, such as for spouses of ex-POW's, survivors of Pearl Harbor, Congressional Medal of Honor servicemen and others. There were also questions about the design of license plates and this may be the time to recommend the whole issue of license plates for interim study.

A motion was made by Sen. F. Kerr to recommend the subject for interim study. Motion was seconded by Sen. Sallee. Motion carried.

Action on H.B. 2015 - After market parts, disclosure of.

Sen. Francisco said he had worked with both groups and they had come to an agreement on the bill except for one phrase which was in the balloon copy of the bill. (Attachment 2). The phrase that was in disagreement was on page 2 in the suggested amendment reading "or the installer of the after market parts." The ones wanting to leave it in were the automobile dealers, GM, and KADRA (Kansas Automotive Dismantlers & Recyclers Association). Those wanting the phrase out were the insurance representatives and dealers of after market parts. Each side was asked to state their position.

Dick Scott, State Farm Insurance, said to place the installers outside of the warranty takes installers out of the Consumers Protection Act and relieves them of responsibility. They oppose taking the installer out of any responsibility.

Pat Barnes, Car Dealers Association, said the customer has no choice in the matter. If they put the part on the vehicle there is implied warranty. If the part doesn't fit right they cannot make it fit. They should not be responsible for the warranty on the part.

A conceptual motion was made by Sen. Rock that the installer should be responsible for the workmanship of the installation, but not the part itself. Motion was seconded by Sen. Francisco. Motion carried.

A motion was made by Sen. Francisco to adopt the amendments in the balloon copy. Motion was seconded by Sen. Rock. Motion carried.

A motion was made by Sen. Francisco to recommend H.B. 2015 as amended, favorably for passage. Motion was seconded by Sen. Kanan. Motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,
room 254-E, Statehouse, at 9:02 a.m./~~p.m.~~ on March 28, 1989

Action on H.B. 2066 - Motor vehicle warranties, consumer protection law.

A motion was made by Sen. Hayden to recommend H.B. 2066 favorably for passage. Motion was seconded by Sen. Sallee. Motion carried.

Action on H.B. 2238 - Vehicle I.D. numbers, penalties.

The Committee discussed putting the word "knowingly" on lines 22 and 32. A motion was made by Sen. Sallee to include "knowingly" in these two lines. Motion was seconded by Sen. Francisco. Some felt this would be a big loophole and could open it up to potential abuse. Sen Sallee withdrew his motion and Sen. Francisco withdrew his second.

A motion was made by Sen. Sallee to insert the word "knowingly" in section (b) on line 35. Motion was seconded by Sen. Francisco. Motion carried.

A motion was made by Sen. F. Kerr to recommend H.B. 2238 as amended, favorably for passage. Motion was seconded by Sen. Sallee. Motion carried.

Action on H.B. 2483 - Vision standards for driver's licenses.

The committee discussed New Section 2 of the bill which had been amended into the bill by the House Committee of the Whole. While school attendance is a real problem the committee felt this was not the way to address it. A motion was made by Sen. Kanan to delete Section 2 from the bill. Motion was seconded by Sen. Sallee. Motion carried.

An amendment had been recommended by Gary Robbins, Kansas Optometric Association. (Attachment 3).

A motion was made by Sen. Hayden to amend H.B. 2483 on line 39 by inserting "in the better eye" after 20/60. This would clarify that an individual with 20/20 in one eye, and 20/60 in the other would not be subjected to a driver's test. Motion was seconded by Sen. Sallee. Motion carried.

A motion was made by Sen. Thiessen to recommend H.B. 2483 as amended, favorably for passage. Motion carried.

There was an error in the Minutes of March 22, 1989. On the attendance instead of reading "All members were present except" it should read "Members present:" The Minutes were to be corrected.

A motion was made by Sen. Francisco to approve the Minutes of March 20, 21, and 22 (as corrected). Motion was seconded by Sen. F. Kerr. Motion carried.

Meeting was adjourned at 10:00 a.m.

New Member Accepts Post on Highway Advisory Commission

Ervin Knocke, Arkansas City, has been appointed by Governor Mike Hayden to serve a four year term on the Highway Advisory Commission. He is an insurance and real estate agency for the United Agency Inc., is a member of the Highways for Progress Coordinating Council and chairman of the Pride Transportation Task Force.

Knocke was a member of the Governor's Transportation Task Force from 1978 to 1979 and is a past member of the South Central Council of Chambers and a past member of the multi-state Northwest Passage Association. He served for 14 years as president of the Kansas Division of the U.S. 77 Highway Association. Knocke will represent District Five on the Commission.

Governor Hayden also reappointed John Welsh, Weskan, and Emerson Lynn Jr., Iola, to four year terms on the Commission.

Thank you KDOT Employees Project Topeka Complete

Thank you to all KDOT headquarters personnel who contributed soup and other food items for Project Topeka, the annual February drive to collect food for the community's needy.

Collection boxes on the 7th, 8th, 9th and 10th floors yielded over 500 items of food. Representatives of the KDOT Employee's Council helped advertise the project by putting up posters, placing the boxes and collecting the food after the drive. Special thanks to Trent Lassiter, Support Services Section, who designed and made the posters and collection boxes.

About 140,000 items of food were collected in the Topeka area which will benefit Shawnee County citizens in need of food and will be donated to Doorstep, the Emergency Center, Fellowship Inc., I Care, Let's Help, North Topeka Outreach and the Salvation Army.

Reconstruction of an Alcohol-Related Accident

Drinking and driving don't mix and one of the fatal outcomes of mixing the two is an alcohol-related crash. Drinking impairs the reflexes and hinders the drivers ability to handle a vehicle, making accidents extremely likely. It takes less than a second for a drunk driver to end his own and other lives. The reconstruction of an alcoho-related accident - in slow motion when a car, traveling at 55 mph, crashes into a solid, immovable tree - goes something like this:

* One-tenth of a second - The front bumper and chrome of the grill work collapses. Slivers of steel penetrate the tree to a depth of one and one-half inches or more.

*Two-tenths of a second - The hood crumbles as it rises, smashing into the windshield. Spinning rear wheels leave the ground. The front fenders come into contact with the tree, forcing the rear parts out over the front door. The heavy structural members of the car begin to act as a brake on the terrific forward momentum of the two and a half ton car. But the driver's body continues to move forward at the vehicle's original speed (20 times the normal force of gravity, his body weight is 3,200 pounds). His legs, ramrod straight, snap at the knee joints.

*Three-tenths of a second - The driver's body is now off the seat, torso upright, broken knees pressing against the dashboard. The plastic and steel frame of the steering wheel begins to bend under his terrible death grip. His head is now near the sun visor, his chest above the steering column.

*Four-tenths of a second - The car's front 24 inches has been demolished, but the rear end is still traveling at an estimated speed of 35 mph. The body of the driver is still traveling at 55 mph. The rear end of the car, like a bucking horse, rises high enough to scrape bark off low branches.

*Five-tenths of a second - The driver's fear-frozen hands bend the steering column into an almost vertical position. The force of gravity impales him on the steering shaft. Jagged steel punctures lung and intercostal arteries.

*Six-tenths of a second - The driver's feet are ripped from his tightly-laced shoes. The brake pedal sheers off at the floor boards. The chassis bends in the middle, shearing body bolts. The driver's head smashes into the windshield. The rear of the car begins its downward fall, spinning wheels digging into the ground.

* Seven- tenths of a second - The entire body of the car is forced out of shape. Hinges tear, doors spring open. In one last convulsion, the seat rams forward, pinning the driver against the cruel steel of the steering shaft. Blood leaps from the mouth, shock has frozen his heart. The driver is now dead.

The elapsed time is only seven-tenths of a second.

Upcoming Events

March 13, 9 a.m., Road Field Check for Project 24-75 K-0671-01, Pottawatomie County. The meeting will be held in the boat ramp parking lot located at the southwest corner of the eastbound Big Blue River Bridge.

March 13, 1:15 p.m., Surfacing Type Committee Meeting, Design Conference Room, 9th Floor.

March 15, Preconstruction Conference for Project 70-105 K-1421-02, Wyandotte County. The meeting will be held at the Metro Office, I-35 and Lamar.

March 22, 10 a.m., Preconstruction Conference for Project 24-44 K 3476-01, Jefferson County. The meeting will be held at the Lawrence Construction Office, junction of U.S. 24/40-59 in northeast Lawrence.

March 29-30, 71st Annual Kansas Transportation Engineering Conference, Manhattan.

April 13, Noon, Kansas Section of the American Society of Civil Engineers, Docking State Office Building Cafeteria.

April 13, Noon, KDOT Employees' Council, KDOT Conference Room, 7th Floor.

April 14, 1 p.m., Highway Advisory Commission, KDOT Conference Room, 7th Floor.

April 20, 10 a.m., Highway Construction Bid Letting, Ramada Inn Downtown, 420 E. 6th Street, Topeka.

Notes of Interest

The Office of Engineering Support recently had new phone lines installed and their phone numbers have changed. The main number for the office is 296-7916 for reaching Lisa Miller, Secretary, or Bob Cutter, Office Chief. The number for Sandra Greenwell or the Contract Compliance Section is 3597 and Harold Benoit, Special Studies Administrator, can be reached at 7734. The number for Neil Rusch remains 3597. Employees are urged to update their copies of the KDOT Telephone Directory with corrected numbers as they are published in **Inside KDOT**.

New Employees-Promotions

Headquarters

Harold Benoit, Transportation Manager I, Office of Engineering Support

Rich Mesloh, Civil Engineer III, Design (Bridge)

District One

Jon Sharp, Highway Maintenance Supervisor, Oskaloosa

Mitchel Moomaw, Engineering Technician II, Wamego

John Wiss, Engineering Technician IV, Kansas City

Ken Tinder, Engineering Technician IV, Kansas City

Harold Long, Engineering Technician IV, Kansas City

Ron Weyer, Engineering Technician IV, Kansas City

Carl Sanders, Engineering Technician IV, Kansas City

District Three

Robert Weiss, Civil Engineer III, Oakley

Deborah Hagman, Office Assistant II, Phillipsburg

District Five

John Stieb, Civil Engineer II, El Dorado

KDOT SAFETY TIP

When traffic is heavy, vehicles moving too fast have to keep changing lanes. Cars driving too slow force others to change lanes. Adjust your speed to stay with the flow of the traffic. The fewer lane changes you make, the safer you will be.

Bureau of Design Reorganization Brings Number of Changes

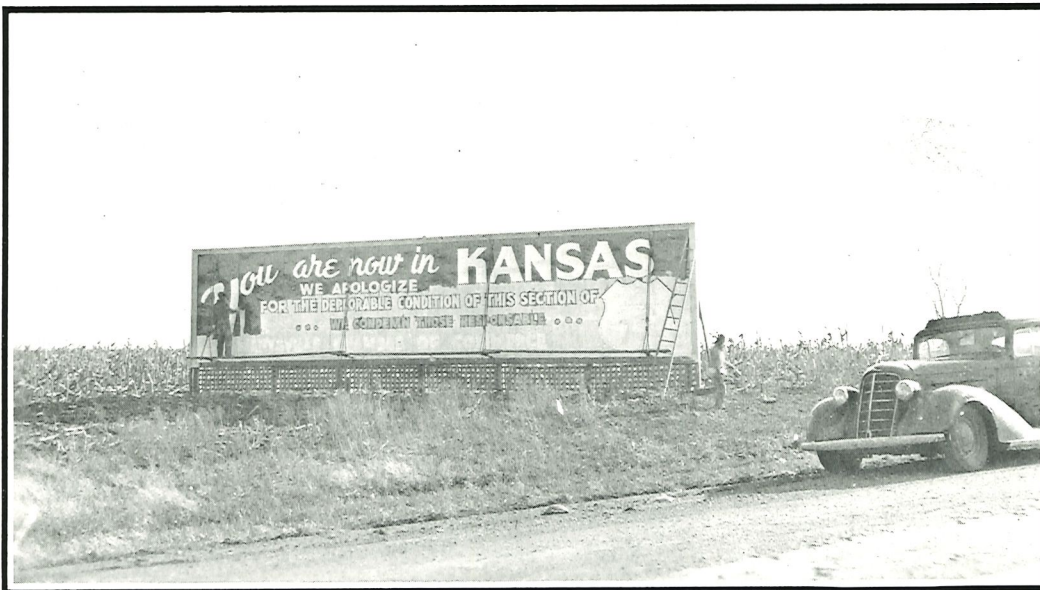
Recent reorganization in the Bureau of Design has brought a number of changes that employees should be aware of. The Bureau, under the direction of Bert Stratmann, now consists of the Bridge Section, Coordinating Section, Design Contracts Section, Environmental Services Section and Road Section.

The newly created Design Contracts Section was organized following the retirement of Wayne Luallin, who had served as Engineer of Consulting Services for the last 10 years. Cleve Blair will serve as Design Contracts Engineer with the section preparing and administering contracts with consulting engineer firms. Blair's KDOT career spans 31 years within various capacities in the agency including Road Design, Management Services and Traffic Engineering. Two design squads, formerly part of Consulting Services, have been reassigned to the Road Section, under the direction of Jim Brewer, State Road Engineer, and Dick Adams, Road

Design Engineer. These squads will continue to handle plan development, plan review, and project coordination. The Bridge Section, under the direction of Ken Hurst, State Bridge Engineer, and Keith LeGer, Bridge Design Engineer, will continue to handle review of structure design.

Under the reorganization Carroll L. Morgenson, Landscape Architect, will be part of the Environmental Services Section under the direction of Al Stallard.

The Coordinating Section will be under the direction of Milo Kratochvil, recently promoted from his position as Survey Engineer to Coordinating Engineer. Al Cathcart is the Assistant Coordinating Engineer, with the section primarily handling utility adjustments and railroad crossing projects. A new survey engineer in that section will be recruited in the near future.



Residents of Marysville thought apologizing for the deplorable condition of this section of U.S. 77 in Marshall County was the best way to reach out of state travelers and perhaps the Legislature in the early 1930's. Pulled from our photo archives, the billboard message seems just as urgent today as the Legislature faces some major decisions for funding a highway program in 1989 for the state of Kansas.

Kansas Railroad-Highway Conference Gives Participants Chance to Share Ideas, Learn Regulations

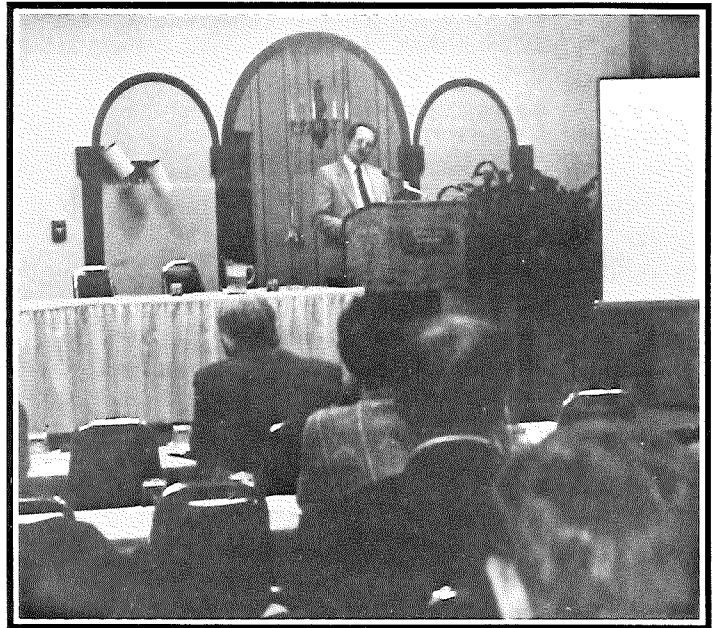
The 6th annual Kansas Railroad-Highway Conference was held Wednesday, March 1 at the Holidome in Topeka. About 100 individuals attended the conference which is designed to keep state officials, railroad officials, city and county representatives and other interested individuals informed and up to date about the latest issues facing the users of Kansas highways and railways.

"The conference gives participants a chance to share ideas and hear the latest regulations and changes in the laws," according to Al Cathcart, Assistant Coordinating Engineer in the Bureau of Design who helped moderate the conference.

Attendees were greeted by KDOT Secretary Horace Edwards and James Bush, Director of the Division of Engineering and Design. Robert Cutter, Office of Engineering Support and Bob Manlove, Public Project Engineer from the Atchison, Topeka and Santa Fe Railway Company, also gave introductions at the conference. Paul Oakley, Association of American Railroads gave a Washington Update and Jack Tierce, Kansas Corporation Commission, gave an update on Kansas Operation Life Saver.

Cathcart gave a status report on the KDOT Section 130 program, now in operation for about 15 years in the state, which allows for improvements, based on a priority rating, of highway/railroad crossings in Kansas. For fiscal years 1988 and 1989 on-site diagnostic reviews were done at 250 crossings with 171 signalization projects programmed for preliminary engineering. Eighteen grading and surfacing projects for truck pull-out lanes were programmed at a cost of \$849,438 and 132 signalization projects were programmed for construction at a cost of \$11.7 million.

Accident statistics for highway/railroad crossings were also announced at the conference and showed a decrease in the number of fatal accidents during 1988, with a total of 19 fatalities, compared to 23 fatalities during 1987. There were 251 accidents at the intersections of highways and railroads in the first nine months of 1988 compared to 349 during 1987.



Participants are informed of Kansas' policy on railroad clearances for overpasses and underpasses by Ken Hurst, KDOT State Bridge Engineer.

Governor: Mike Hayden
Secretary of Transportation: Horace B. Edwards
Director of Public Affairs: Mike Grogan
Public Information Officer: Liz Zirger
Editor: Patrice Pomeroy
Public Information Staff: Stan Whitley, Ramona Turner

Inside KDOT is a publication of the Kansas Department of Transportation, Office of Public Information. Graphics, artwork assistance and printing provided by the Support Services Section of the Bureau of Management and Budget. 3,400 copies have been prepared and distributed at a cost of \$1.34 per employee per year.

Ask KDOT ... Q & A

What is the status of House Bill 2192 ?

House Bill 2192 deals with requiring rumble strips at certain railroad crossings in the state. The bill was introduced in the House and referred to the House Transportation Committee. It was passed by the House Committee on March 6 and is on general orders in the full House where it awaits action. For additional information and updates on the latest Legislative action please refer to the **Legislative Update** in this issue of **Inside KDOT**.

HOUSE BILL No. 2015

By Special Committee on Transportation

Re Proposal No. 44

12-22

18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

AN ACT concerning motor vehicles; relating to the repair thereof; concerning the use of after market parts; disclosure; amending K.S.A. 50-626 and repealing the existing section.

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

New Section 1. As used in this act: "after (a) "After market part" means 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;

(b) "insurer" includes any person authorized to represent the insurer with respect to a claim who is acting within the scope of the person's authority.

New Sec. 2. (a) No insurance company insurer shall require the use of after market parts in the repair of a motor vehicle unless the after market parts are at least equal in quality to the original part in terms of fit and performance;

(c) (b) violations of subsection (a) and section 3 by insurers shall be enforced under the provisions of K.S.A. 40-2401 et seq., and amendments thereto.

~~New Sec. 3. Any person who prepares an estimate of the cost of motor vehicle repairs shall disclose to the owner of the motor vehicle, either on the estimate or on a separate document attached to the estimate, the following information in at least 10-point type: THIS ESTIMATE HAS BEEN PREPARED BASED ON THE USE OF AUTOMOBILE PARTS NOT MADE BY THE ORIGINAL MANUFACTURER. PARTS USED IN THE REPAIR OF~~

or for
replacement
equipment

without disclosing to the owner the intent to use such parts.

No person who prepares an estimate of repair shall specify the use of after market parts in the repair of a motor vehicle without disclosing the intended use of such parts to the owner. In all instances where after market parts are intended for use, the written estimate shall clearly identify each such part as being an after market part, and a disclosure document containing the following information in 10-point type or larger type shall appear on or be attached to the owner's copy of the estimate:

~~YOUR VEHICLE BY OTHER THAN THE ORIGINAL MANUFACTURER ARE REQUIRED TO BE AT LEAST EQUAL IN QUALITY IN TERMS OF FIT AND PERFORMANCE TO THE ORIGINAL MANUFACTURER PARTS THEY ARE REPLACING. PARTS USED IN THE REPAIR OF YOUR VEHICLE BY OTHER THAN THE ORIGINAL MANUFACTURER MAY NOT BE COVERED BY THE VEHICLE MANUFACTURER'S WARRANTY.~~

"THIS ESTIMATE HAS BEEN PREPARED BASED ON THE USE OF ONE OR MORE AFTER MARKET PARTS SUPPLIED BY A SOURCE OTHER THAN THE MANUFACTURER OF YOUR MOTOR VEHICLE. WARRANTIES APPLICABLE TO THESE PARTS ARE PROVIDED BY THE PARTS MANUFACTURER OR DISTRIBUTOR RATHER THAN BY THE MANUFACTURER OF YOUR VEHICLE OR THE INSTALLER OF THE AFTER MARKET PARTS."

2-2

All after market parts installed on the motor vehicle shall be clearly identified on the estimate of such repair.

and are subject to the provisions provided by the disclosure.

Sec. 4. K.S.A. 50-626 is hereby amended to read as follows:
 50-626. (a) No supplier shall engage in any deceptive act or practice in connection with a consumer transaction.

(b) Deceptive acts and practices include, but are not limited to, the following, each of which is hereby declared to be a violation of this act:

(1) Representations made knowingly or with reason to know that:

(A) Property or services have sponsorship, approval, accessories, characteristics, ingredients, uses, benefits or quantities that they do not have;

(B) the supplier has a sponsorship, approval, status, affiliation or connection that he or she does not have;

(C) property is original or new, if such property has been deteriorated, altered, reconditioned, repossessed or is second-hand or otherwise used to an extent that is materially different from the representation;

(D) property or services are of particular standard, quality, grade, style or model, if they are of another which differs materially from the representation; or

(E) the consumer will receive a rebate, discount or other benefit as an inducement for entering into a consumer transaction in return for giving the supplier the names of prospective consumers or otherwise helping the supplier to enter into other consumer transactions; if receipt of benefit is contingent on an event occurring after the consumer enters into the transaction;

(2) the intentional use, in any oral or written representation,

2-2

82 of exaggeration, innuendo or ambiguity as to a material fact;

83 (3) the intentional failure to state a material fact, or the
84 intentional concealment, suppression or omission of a material
85 fact, whether or not any person has in fact been misled;

86 (4) disparaging the property, services or business of another
87 by making, knowingly or with reason to know, false or mis-
88 leading representations of material facts;

89 (5) offering property or services without intent to sell them;

90 (6) offering property or services without intent to supply
91 reasonable, expectable public demand, unless the offer dis-
92 closes the limitation;

93 (7) making false or misleading representations, knowingly
94 or with reason to know, of fact concerning the reason for, ex-
95 istence of or amounts of price reductions, or the price in com-
96 parison to prices of competitors or one's own price at a past
97 or future time;

98 (8) falsely stating, knowingly or with reason to know, that
99 a consumer transaction involves consumer rights, remedies or
100 obligations;

101 (9) falsely stating, knowingly or with reason to know, that
102 services, replacements or repairs are needed;

103 (10) falsely stating, knowingly or with reason to know, the
104 reasons for offering or supplying property or services at sale
105 or discount prices;

106 (11) knowingly failing to provide the disclosure required in
107 section 3.

108 ~~Sec. 5. K.S.A. 50-626 is hereby repealed.~~

109 ~~Sec. 4. — The attorney-general shall have the jurisdiction to en-
110 force the provisions of section 3 under the provisions of the con-
111 sumer protection act, K.S.A. 50-623 et seq., and amendments -
112 thereto, except as it applies to an insurer. —~~

113 ~~Sec. 5.~~ This act shall take effect and be in force from and after
114 its publication in the statute book.
115

Sec. 4 The requirements of this act shall not apply to vehicles more than
10 model years of age or older.

Sec. 5 The jurisdiction to enforce the provisions of section 3 shall be under
the provisions of the consumer protection act, K.S.A. 50-623 et seq.,
and amendments thereto, except as it applies to an insurer.

Sec. 6

Kansas Optometric Association

400 Kansas Ave. Suite A, Topeka, KS 66603
913-232-0225

March 23, 1989

The Honorable Bill Morris
State House
Topeka, KS 66612

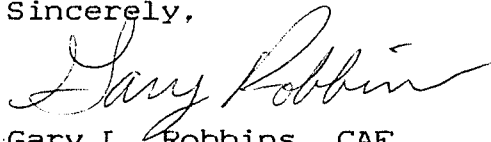
Dear Senator Morris:

Thank you for including my written testimony in the hearing on House Bill 2483. The Vehicle Department questioned the use of "or less" in my proposed amendment. I agree that it should not have been included in my amendment. The proposed change in subsection (c) line 39 would be the insertion after 20/60 of "in the better eye." This change merely clarifies that an individual with 20/20 in one eye, and 20/60 in the other would not be subjected to a driver's test.

Subsection (c) would then read "The driver's license examiner shall require each individual with a reading of 20/60 in the better eye ~~or less in at least one eye~~, with or without corrective lens, to submit to a driver's test ~~for the proper restrictions.~~"

With this technical change, we support House Bill 2483 as amended by the House Transportation Committee. I apologize for any confusion or inconvenience I have created in this matter.

Sincerely,



Gary L. Robbins, CAE
Executive Director

GLR/DAC

cc Senate Public Health and Welfare Committee

ATT. 3
T&U
3/28/89