

Approved February 6, 1990
Date

MINUTES OF THE House COMMITTEE ON Transportation

The meeting was called to order by Larry Wilbert at
Vice- Chairperson

1:30 ~~a.m.~~/p.m. on February 5, 1990 in room 519-S of the Capitol.

All members were present except:

Representative Everhart, excused.

Committee staff present:

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

Conferees appearing before the committee:

Rep. Richard Eckert
Rep. Elizabeth Baker
Lt. Col. Stanley Smith, Kansas National Guard
Mr. Don Jarrett, Board of Johnson County Commissioners
Ms. Bev Bradley, Kansas Association of Counties

The meeting was called to order by Vice-Chairman Larry Wilbert, and the first order of business was a hearing on HB-2709 providing license plates for retired members of the Kansas National Guard.

Representative Richard Eckert, sponsor of HB-2709, briefed the Committee on its contents.

Representative Elizabeth Baker spoke in support of HB-2709.

Lt. Colonel Stanley Smith, The Kansas National Guard Association of Kansas, testified in favor of HB-2709. (See Attachment 1)

Discussion and questioning by Committee members followed Lt. Colonel Smith's remarks.

The next order of business was a hearing on HB-2598 concerning the registration of motor vehicles including residency, refunds and fines.

Mr. Donald Jarrett, Chief Counsel for the Board of Johnson County Commissioners, testified in support of HB-2598. (See Attachment 2)

Ms. Bev Bradley, Kansas Association of Counties, testified in support of HB-2598. (See Attachment 3)

The hearing on HB-2598 ended.

Chairman Crowell announced that Secretary Horace B. Edwards, Kansas Department of Transportation, would present to the Committee on February 13, 1990, a financial briefing for KDOT and discuss handicapped financing.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,
room 519S Statehouse, at 1:30 a.m./p.m. on February 5, 1990.

Chairman Crowell asked if all Committee members agreed on wording of the motion made by Representative Dillon on February 1, 1990, to request a bill be introduced which would preclude the use of the special permit process to allow triple bottom trailers other than where currently allowed. No committee member expressed any disagreement.

Representative Smith made a motion that action on HB-2662 be reconsidered. The motion was seconded by Representative Dillon. Motion carried.

Back on the motion to recommend HB-2662 favorable for passage as amended, motion failed on a division 11-7.

A motion was made by Representative Dillon that HB-2662 be reported adversely. The motion was seconded by Representative Wilbert. Motion carried.

The minutes of the House Transportation meeting held on February 1, 1990, were approved as written.

The meeting was adjourned at 2:40 p.m.



Rex Crowell, Chairman

GUEST LIST

COMMITTEE: Transportation

DATE: 2-5-90

PLEASE PRINT

NAME	ADDRESS	COMPANY/ORGANIZATION
Warren Hoemann	Overland Park	Yellow Freight System
Tom Whitaker	Topeka	Ks Motor Carriers Assn.
Mike Kelley	Overland Park	Yellow Freight System
Randy Wood	Hays Ks	Hays Hi School
Valerie Kaufman	Hays KS	Hays High
Jenny Cox	Hays, Ks	Hays High
Tammy Cole	Hays, KS	Hays High
Jennifer Dunning	Hays, Ks	Close Up Kansas
Jean Stacy	Hays Ks	Close Up Kansas
Damon A. Brumitt	Hays KS	Close Up Kansas
Pam Somerville	TOPEKA	KDOT
Pat Hubbard	Topeka	Kansas Railroad Assn.
JOHN C. BOTTENBERG	TOPEKA	Ks RAILROAD ASSOC.
Lt. BILL JACOBS	TOPEKA	KANSAS HIGHWAY PATROL
BEV BRADLEY	TOPEKA	KS ASSOC of COUNTIES
Anne Smith	Topeka	Ks. Assoc of Counties
Yolanna Single	Johnson County	Johnson County Commissioner
Don Janett	Johnson County	Johnson County Government
Jonathan Small	Topeka KS	Nat Guard Assn of KS
Pam O'Toole	Topeka KS	Natl. Guard Assn. of KS
Jack Robert	Wethore KS.	LEGISLATOR
Elizabeth Baker	Derby, Ks	Legislator
LLOYD H. MEYER	1130 Oakwood Ct, Derby KS	NATIONAL GUARD (Ret)

TESTIMONY FOR HOUSE BILL 2709

Presented by

LTC STANLEY L SMITH
PRESIDENT

THE NATIONAL GUARD ASSOCIATION
OF KANSAS

FEBRUARY 5, 1990

Attach. 1

INTRODUCTION

Currently, active members of the Kansas National Guard (both Army and Air) have the opportunity to acquire a distinctive license plate for each vehicle that they own which is not required to be licensed by the State Corporation Commission.

At the time the member becomes eligible to retire from his military position, if that member has licensed any of his vehicles with a distinctive National Guard license plate, he is bound by state statute to surrender the plate upon separation from the Kansas National Guard.

House Bill No. 2709 offers provisions for individuals who have retired - or will retire from the Kansas National Guard - an opportunity to obtain a distinctive plate or retain those which they have in their possession.

FISCAL IMPACT

A distinctive plate is presently available for members of the Kansas National Guard. This proposed legislation would not require any new or altered design, but would permit the amendment to existing provisions to include retired members, should they so desire. Since the financial requirements to obtain the National Guard distinctive plate is equal to that of a regular plate, it is anticipated that the fiscal impact would be negligible - if any at all.

BENEFIT

Members of the Kansas National Guard are a proud group. For many, to display a distinctive plate offers them an opportunity to exhibit that pride. Espirit de corps is a valuable asset of the Kansas National Guard, and our retirees are an important component of this esprit. From a functional standpoint, display of the plate permits identification of an individual who may be required to drive into an area for official business (examples are the emergencies for which the National Guard is requested to assist, official military functions, etc.). Since retired members of the Guard are often proud of their former service, and similarly may be asked to participate in an official function, we believe that extension of the privilege can only bring positive results.

Our estimates are that initially 250 formerly retired persons will obtain a distinctive plate, and subsequently an approximated 35 persons who retire will maintain the plates which they currently possess.

The National Guard Association of Kansas, in a meeting of their general membership on 15 April 1989, unanimously supported the provisions of this proposal.

Don Jarrett

PREPARED STATEMENT OF TESTIMONY
RELATED TO MOTOR VEHICLE REGISTRATION

PRESENTED BY
DONALD JARRETT, CHIEF COUNSEL
FOR THE BOARD OF COUNTY COMMISSIONERS
JOHNSON COUNTY, KANSAS

Attach. 2

I. INTRODUCTION

On behalf of the Board of County Commissioners of Johnson County, Kansas, I would like to express our appreciation for the opportunity to present testimony to this Special Committee on the issue of motor vehicle registration and residency requirements in the State of Kansas. As an urban county which borders the state line in a major metropolitan area, Johnson County has a very vital concern on those issues.

II. IDENTIFICATION OF ISSUES

The issues which need consideration are not simple, and, quite frankly, are not matters which can best be handled through enforcement procedures.

While proper vehicle registration, as determined by residency requirements, is a serious issue and must be considered as the starting point, it is not the only issue. Rather, there are broader concerns which relate to fairness and equity in motor vehicle personal property taxation, and law enforcement procedures cannot adequately address those concerns.

The most important of those issues are:

1. Do the time limitations permitted by interstate compacts for vehicle registration requirements related to license tags also apply to personal property taxation;

2. How are personal property taxes to be assessed and collected from persons who are residents of the State of

Kansas but who properly register their vehicles for license tag purposes in another state; and

3. How are personal property taxes to be assessed and collected from persons who are residents of other states but who provide or maintain vehicles for use in Kansas or by Kansas residents.

III. THE JOHNSON COUNTY EXPERIENCE

Over the last five years, Johnson County has experienced increasing problems with motor vehicle registrations--both out-of-state and in-state. There are, of course, many contributing factors to those problems, including:

1. Growth and development which has resulted in persons moving into the County;
2. Economic problems in neighboring states which has resulted in relocations into the County; and
3. Increases in tax levels which has resulted in higher motor vehicle personal property taxes.

Some of those problems must, of course, be accepted as part of the down-side to the good fortune of strong economic development. However, some of those problems need legislative attention.

A. MAGNITUDE OF THE PROBLEM

It is impossible to quantify, in numbers, the exact magnitude of the problem. However, based on information gathered over the last year, it can be stated that:

1. The number of vehicles which are registered for license tag purposes in other states exceeds several thousand;

2. A significant percentage of residents perceive an equity problem related to vehicle taxation for out-of-state licensed vehicles; and

3. The amount of tax revenues potentially to be collected from out-of-state vehicles located in the County is significant.

B. TYPES OF PROBLEMS

The types of problems encountered in Johnson County, include but are not limited to the following:

1. Residents of the County which have vehicles registered at a secondary residence in another state, ranging from lake homes to Florida or Arizona condominiums;

2. Residents of the County which possess and use a vehicle owned by another person who resides in another state and, thus, registers the vehicle there;

3. Residents of the County which register vehicles at a business location in another state;

4. Residents of the County which possess and use a vehicle provided to them as an employment benefit from a company located in another state;

5. Residents of the County that register vehicles at property or a business located in another County of the State;

6. Persons who live in the County but who maintain a "legal" place of residency outside the County or State.

C. LAW ENFORCEMENT ISSUES

It is too simple an answer to believe that these problems can be solved through ordinary law enforcement procedures. In Johnson County, we have had excellent support from all of the law enforcement agencies. However, it is extremely difficult for the field officer to determine and make judgments concerning all of the legal qualifications for residency. Moreover, the field officers cannot adequately address the taxation questions.

D. JOHNSON COUNTY'S ENFORCEMENT PROGRAM

In January of 1988, Johnson County did implement a comprehensive program directed at motor vehicle registration. First, the County refined printed materials for distribution which explained state requirements for registration of vehicles for license tag purposes and used media presentations to heighten citizen awareness.

Secondly, the County established a "Hot Line" to handle citizen complaints and requests for information. The hot line provided a major tool to aid in identifying potential violators.

Thirdly, the County Sheriff, through the Johnson County policy chiefs association, established a program for policy officer identification and investigation of vehicle registrations. The program established standardized

procedure, however, provided under 79-306 and 306d is extremely impractical for administration or for vehicle owners.

Thus, the ability of the County to enforce the license tag requirements is limited by the confusing status of the interstate compacts and the lack of well defined residency requirements. Further, those provisions do not even consider the multiple residence or temporary residence issues. For those reasons, it is often the better part of discretion to not strictly enforce uncertain requirements of the law.

More significantly, the ability of the County to assess and collect personal property taxes on vehicles with a "situs" in the State but proper registration elsewhere is extremely limited by the lack of precise statutory provisions directed specifically at those issues. As a point of interest, the ability to tax vehicles by situs was upheld by the Kansas Supreme Court in the case of U.S. Dicarlo Masonry Co. v. Higgins, 178 Kan. 223 (1955).

VI. RECOMMENDATIONS AND REQUESTS

The Board of County Commissioners of Johnson County would, therefore, recommend to and request of this special committee that:

A. The legislature consider adoption of a standard, uniform time period required for vehicle registration applicable to all persons moving into the State, rather than the confusing, myriad of time limits now available under the compacts.

B. The legislature adopt defined criteria for the establishment of a "place of residence" applicable for vehicle registration. That criteria should be as objective and simple as possible-such as, the location of a place of domicile intended to be occupied for any period of time in excess of 30 days.

C. The legislature adopt specific statutory procedures related to "temporary" residents (such as students or workers on temporary assignment) whereby persons could register as temporary residents, for stated purposes, and receive a decal which could be displayed on the vehicle, thus, eliminating enforcement and perception problems.

D. The legislature amend K.S.A. 79-5101 and K.S.A. 79-306 or 306d to clearly establish procedures for the taxation of vehicles having a situs in the state but which are properly registered for license tag purposes in another state. It would be recommended that provisions be made for allowance of a credit for taxes paid in the other state and for assessment against the person possessing the vehicle where the owner does not comply.

E. The legislature adopt specific provisions as a part of K.S.A. 79-5101 related to part-year residents and persons with multiple residencies to require such persons to pay an appropriate portion of taxes within the County.

V. DISCUSSION

A. GENERAL STATUTORY PROVISIONS

In 1979, the legislature enacted the so-called "tax and tags" law, effective January 1, 1980, and codified at K.S.A. 79-5101 et seq. In doing so, the legislature essentially tied license tag registration with the assessment and collection of motor vehicle personal property taxes. That statute must read in context with K.S.A. 8-127 et seq., which covers the actual registration requirements.

Under K.S.A. 8-127, every owner of a vehicle used in this state, whether a resident of Kansas or not, must obtain registration (and, thus, pay taxes) unless otherwise exempt or as provided by interstate compact.

Neither of the statutory enactments define the qualifications of residency-and neither limits its application to residents of the State.

The residency issue arises through the interstate compacts. Under those agreements, registration for license tag purposes is considered proper in the reciprocal states for defined periods of time after a change of residence.

The compacts do not apply at all to taxation. The taxation problem arises because of the connection between tags and taxes under K.S.A. 79-5101 et seq.

At the same time, K.S.A. 79-306 and 79-306d provide for the taxation of motor vehicles which have a "situs" in the county but are not taxes under K.S.A. 79-5101. The

reporting forms to keep the various agencies informed and documented.

Finally, the County implemented a secondary phase to investigate and assess personal property taxes against vehicles located in the County which were determined to be taxable, even if registered properly in another state.

In the past year, more than 600 vehicles have been identified and investigated for registration purposes. The program has resulted in numerous new registrations and vehicles placed on the tax rolls.

IV. LEGISLATIVE CONSIDERATIONS

Enforcement programs cannot alone solve or alleviate the problems. Legislative consideration and action is needed, primarily to address the following issues:

a. Recognizing and easing the burden on law enforcement officials that results from the difficulties in defining residency and applying it to the many, various time limitations authorized under the interstate compact agreements;

b. Providing adequate mechanisms for the taxation of vehicles with a situs in the State, but registered out-of-state to relieve the perceived and real inequity in taxation; and

c. Providing adequate mechanisms to handle "temporary" residents.

VII. CONCLUSION

The Board of County Commissioners of Johnson County does thank this committee for its time and effort in considering these issues. The Board recognizes the difficult nature of the issues, but firmly believes that legislative action is essential and would be very beneficial.

The Board offers its assistance and cooperation to the Committee in its endeavor, and respectfully requests that the legislature adopt the recommendations at the earliest possible time.

Respectfully Submitted,

Board of County Commissioners
Johnson County, Kansas



Bev Bradley
3

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February 5, 1990

To: Representative Rex Crowell, Chairman
Members of the House Transportation Committee

From: Bev Bradley, Legislative Coordinator
Kansas Association of Counties

Re; HB-2598

Significant problems have been experienced by counties with regard to the registering of vehicles by persons who have changed their residency to Kansas, who are temporary residents of the state, or who register a vehicle that was purchased in another state in the state of purchase and return to Kansas without acquiring a permanent Kansas registration. Such action causes a revenue loss to the State and local government and has the impact of increasing taxes on other taxpayers.

The Kansas Association of Counties supports the statutory enactment of specific criteria for residency; provisions for a standard uniform time period for registration of vehicles coming into the state; provisions for registration of vehicles for temporary residents; provisions for tax credit for taxes paid in other states; and provisions for multiple residencies of taxpayers. We support HB 2598, in concept, except we have no official position on the refund portion.

TSB2598

Attach. 3