

Approved 2-1-90
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 January 30, 1990 in room 254-E of the Capito

All members were present ~~except~~.

Committee staff present:

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

Conferees appearing before the committee:

Mark Wettig, Special Assistant to the Secretary of Revenue
Pam Somerville, Kansas Department of Transportation
Tom Whitaker, Kansas Motor Carriers Association
Jerel Wright, Kansas Credit Unions

Hearing on S.B. 481 - Increasing fee for duplicate registration receipt.

Mark Wettig said this bill would increase the fee for a duplicate registration receipt from \$.50 to \$2.00. The actual cost to replace a lost or destroyed registration is \$2.00 and the Department feels it should be passed on to the actual user. A copy of his statement is attached. (Attachment 1).

Hearing on S.B. 483 - Taxation of motor fuels; payment, penalty.

Mark Wettig said this bill would reinstate the exemption from the motor vehicle fuel tax on the first sale from a refinery, pipeline terminal or tank farm to a duly licensed distributor. This was inadvertently eliminated in 1985 when the Department deleted subsection (e) of K.S.A. 79-3408 in order to eliminate the "daisy chain" effect of tax free transfers of motor fuel from one licensed distributor to another because of the potential for tax evasion and the difficulty in tracing these tax free sales from one distributor to another. They have made their intentions clear to all licensed distributors but they must have legislative action if they want to continue to allow the "tax free" transfer. He had an amendment to S.B. 483 on page 2, line 13 to add the words "who in turn resells to another duly licensed distributor." A copy of his statement along with the amendment is attached. (Attachment 2).

Pam Somerville, KDOT, said they would support the bill with the amendment. A copy of her statement is attached. (Attachment 3).

Tom Whitaker, KMC, said they were opposed to the increase in the penalty from 5% to 10%. They feel that after supporting the comprehensive highway program the statutory penalty provisions are sufficient, coupled with the overall tax increases they are paying. They would support the bill providing the penalties for delinquent fuel taxes remain at 5%. A copy of his statement is attached. (Attachment 4).

A motion was made by Sen. Rock to amend the bill on page 2, line 13 after the word distributor, by inserting "who in turn resells to another duly licensed distributor". Motion was seconded by Sen. Hayden. 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 January 30, 1990.

A motion was made by Sen. Hayden to recommend S.B. 483 as amended, favorably for passage. Motion was seconded by Sen. Rock.

A substitute motion was made by Sen. Francisco to strike the 10% penalty and insert a 5% penalty. Motion was seconded by Sen. Martin.

After discussion on the subject the committee decided to get an estimate of the cost involved here before voting on the bill.

Action on S.B. 486 - Brokers

Mike Grogan, Executive Director of Wichita New Car Dealers Association, had an amendment which would take care of the resale of used R.V.'s. This had been discussed in a previous meeting. A copy of the proposed amendment is attached. (Attachment 5).

A motion was made by Sen. Rock to adopt the proposed amendment. Motion was seconded by Sen. Sallee. Motion carried.

Jerel Wright, Kansas Credit Union League, said there are some credit unions that are working with brokers to help individual members get a lower price on a motor vehicle without the worry of negotiating the price. They oppose S.B. 486 because it would prohibit bringing buyers and sellers together. This would eliminate one of the ways that credit unions can be of service to their members. A copy of his statement is attached. (Attachment 6).

A motion was made by Sen. Francisco to recommend S.B. 486 as amended, favorably for passage. Motion was seconded by Sen. Hayden. Motion carried.

On a motion from Sen. Thiessen and a second from Sen. Francisco the Minutes of January 24 and 25 were approved.

Meeting was adjourned at 10:00 a.m.

SENATE TRANSPORTATION AND UTILITIES COMMITTEE

Date 1-30 Place 254-E Time 9:02

GUEST LIST

NAME	ADDRESS	ORGANIZATION
Mike Hogan	Topeka	Ks Auto Dealers Regulatory Coalition
Nancy Kemper	Lawrence	County Treas. Assn.
Jacquie Oakes	Topeka	Ks Ind. Auto Dealer Assn.
Mary Shivers	Topeka	KDOT
Pam Somerville	TOPEKA	KDOT
Don Kinosey	OSAWATOMIE	UTU
Tom Whitaker	Topeka	Ks Motor Carriers Assn
Rebecca Rice	Topeka	Amoco
Janet Wright	Topeka	KCUA
Henry Humphrey	"	KMHA
Lo Eisenhauer	"	KLPGA
ED DE SOIGNE	TOPEKA	KANSAS CONTRACTORS ASSOC.
Dedia Boling	Topeka	Dept. of Rev.
Melanie Carr	Topeka	Dept. of Revenue
Charles Nicolay	Topeka	Ks Oil Marketers

SENATE TRANSPORTATION AND UTILITIES COMMITTEE

Date 1-30 Place 254-E Time 9:02

GUEST LIST

NAME

ADDRESS

ORGANIZATION

Steve Kenworthy

Topexa

COASTAL

Kevin Allen

Topexa

KS Motor Car
Dealers Assn.

MEMORANDUM

TO: The Honorable Bill Morris, Chairman
Senate Transportation and Utilities

FROM: Mark E. Wettig
Special Assistant to the Secretary of Revenue

DATE: January 29, 1990

SUBJECT: Senate Bill 481

I appreciate the opportunity to appear before you today in support of legislation requested by the Department of Revenue. Senate Bill 481 is the result of a Department recommendation to increase the fee for a duplicate registration receipt from \$.50 to \$2.00.

BACKGROUND

A duplicate registration is issued upon request of a vehicle owner when the original registration has been lost or destroyed. This past summer the Department did an intensive internal audit of fees which have not been raised for some time, to determine if such fees fell short of the Department's actual costs for the service rendered. The auditors determined that the actual cost (processing, mailing, ect.) to produce a duplicate registration is \$2.00.

RECOMMENDATION

The Department feels that the duplicate registration fee is a "user fee" and as such should be passed on to the actual user. The Department of Revenue urges the committee's support of Senate Bill 481.

Thank you.

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MEMORANDUM

TO: The Honorable Bill Morris, Chairman
Senate Transportation and Utilities

FROM: Mark E. Wettig
Special Assistant to the Secretary of Revenue

DATE: January 30, 1990

SUBJECT: Senate Bill 483

I appreciate the opportunity to appear before you today in support of legislation requested by the Department of Revenue. Senate Bill 483 is the result of Department recommendations in the fuel tax area.

BACKGROUND

Senate Bill 483 has several effects:

1. It reinstates the exemption from the motor vehicle fuel tax on the first sale from a refinery, pipeline terminal or tank farm to a duly licensed distributor. In 1985, the Department deleted subsection (e) of K.S.A. 79-3408 in order to eliminate the "daisy chain" effect of tax free transfers of motor fuel from one licensed distributor to another because of the potential for tax evasion and the difficulty in tracing these tax free sales from one distributor to another. By eliminating this section, the Department inadvertently eliminated the exemption that allowed the major oil companies at the refineries, pipeline and terminals to sell "tax-free" to the first licensed distributor. Because of the 1985 change, 79-3408 technically requires all major oil companies at the refineries, pipeline and terminals to collect the tax from the first licensed distributor who purchases or actually takes delivery of the fuel. This has become an issue because the Department assured lawmakers that by eliminating 79-3408(e)(1) in 1985, the Department did not intend to eliminate the ex-tax sale of motor fuel to distributors on the first sale from terminals and refineries.

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Because of continued concern over this matter, the Department sent out a letter to all licensed distributors, refineries and terminals stating that our intention was not to eliminate this provision, and that until we could implement legislation to correct this, the Department's policy is that the licensed distributor or importer that is shown on the manifest (bill of lading) as purchasing or actually taking delivery of the fuel as it leaves the refinery, pipeline or terminal, are the ones responsible for paying the motor vehicle fuel tax. So far, this policy opinion has worked. However, the law technically does not allow our position, so the Department must request legislative action if we want to continue to allow the "tax free" transfer. The Department would like to propose the attached amendment to insure the intent is clear.

2. It increases the penalty rate from 5% to 10% on delinquent motor fuel tax, special fuel tax, liquified petroleum motor fuel tax, and interstate motor fuel tax in order to bring the penalty into conformity with all other taxes.
3. It adds a provision in the special fuel, L.P. motor fuel and interstate motor fuel tax acts for the Director of Taxation, when mutually agreed by the Department and the taxpayer, to extend the statute of limitations for assessing additional tax or filing a refund claim.

This provision is currently in place for both income tax and sales and use tax.

RECOMMENDATION

The Department asks for the committee's support of Senate Bill 483.

Thank you.

AMENDMENT

SB 483

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(2) The sale or delivery of motor-vehicle fuel to the United States of America and such of its agencies as are now or hereafter exempt by law from liability to state taxation.

(3) The sale or delivery of motor-vehicle fuel to a contractor for use in performing work for the United States or those agencies of the United States above mentioned, provided such contractor has in effect with the United States or any such agency a cost-plus-a-fixed-fee contract covering the work.

(4) The sale or delivery of motor-vehicle fuel which is aviation fuel.

(5) *The first sale or delivery of motor-vehicle fuel from a refinery, pipeline terminal, pipeline tank farm or other place to a duly licensed distributor,*

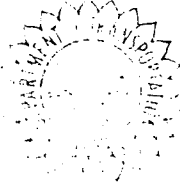
who in turn resells to another duly licensed distributor.

(e) Each distributor, manufacturer or importer shall make full reports and furnish such further information as the director may require with reference to all transactions upon which no tax is to be paid.

Sec. 2. K.S.A. 79-3410 is hereby amended to read as follows: 79-3410. Except as hereinafter provided, every distributor, manufacturer or importer of motor-vehicle fuels shall, on or before the ~~twenty-fifth~~ 25th day of each month, render to the director at the director's office in Topeka, Kansas, upon a form prescribed, prepared and furnished by the director a report certified to be true and correct showing the number of gallons of motor-vehicle fuels received by such distributor, manufacturer or importer during the preceding calendar month, and such further information as the director shall require. Every distributor, manufacturer or importer within the time ~~herein~~ fixed for the rendering of such reports, shall compute and shall pay to the director at the director's office the amount of taxes due to the state on all motor-vehicle fuels received by such distributor, manufacturer or importer during the preceding calendar month.

The director may waive the requirement for monthly reports from licensed manufacturers, who are also licensed distributors, when all taxes accrued under either or both licenses or which might accrue are paid under the distributor license. All taxes imposed under the provisions of this act not paid ~~as aforesaid~~ on or before the ~~twenty-fifth~~ 25th day of the month succeeding the calendar month in which the motor-vehicle fuels were received by the distributor, manufacturer or importer shall be deemed delinquent and shall bear interest at the rate per month, or fraction thereof, prescribed by ~~K.S.A. 79-2968(a)~~ subsection (a) of K.S.A. 79-2968, and amendments thereto, from such due date until paid, and in addition thereto there is hereby imposed upon all amounts of such taxes remaining due and unpaid

STATE OF KANSAS



KANSAS DEPARTMENT OF TRANSPORTATION

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

Horace B. Edwards
Secretary of Transportation

Mike Hayden
Governor of Kansas

JANUARY 30, 1990

MEMORANDUM TO: SENATE TRANSPORTATION AND UTILITIES COMMITTEE

FROM: KANSAS DEPARTMENT OF TRANSPORTATION

REGARDING: SB 483 COLLECTION OF MOTOR FUEL TAXES

CHAIRMAN AND MEMBERS OF THE COMMITTEE:

The provisions of Senate Bill 483 are intended to exempt certain transactions by refineries, pipeline terminals, and pipeline tank farms from requiring these entities to be tax remitting agents for the motor fuel taxes.

The collection of motor fuel taxes by the state is initiated by the first receipt of the motor fuel by distributors, manufacturers and importers in the chain of transactions resulting in purchase by the actual consumer.

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Senate Transportation and Utilities Committee
January 30, 1990
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The bill as currently drafted would exempt a significant portion of the gallonage from being taxed by eliminating the first sale to distributors from refineries, pipeline terminals and pipeline tank farms. The elimination of this gallonage from tax could significantly reduce the current motor fuel tax collections by up to \$190 million in FY 1991.

The Department of Revenue has indicated their intention to provide the committee with language to amend the bill. The following language is being proposed to be inserted at line 13, page 2:

...distributor, who in turn resells to another duly licensed distributor

Unless such language is included in the bill, the Department of Transportation respectfully opposes the passage of SB 483.

STATEMENT

By The

KANSAS MOTOR CARRIERS ASSOCIATION

Presented to the Senate Transportation & Utilities
Committee; Senator Bill Morris, Chairman; Statehouse,
Topeka, Tuesday, January 30, 1990.

Concerning Senate Bill No. 483, relating to the
payment of motor fuel taxes.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am Tom Whitaker, Governmental Relations Director of the Kansas Motor Carriers Association with offices in Topeka. I appear here this morning representing our 1,525 member-firms and the highway transportation industry to express our concerns with the penalty provisions of Senate Bill No. 483.

Senate Bill No. 483 increases the penalty for failure to pay the taxes on motor vehicle fuel, special fuel and LP-gas from 5% to 10%. While this may appear on the surface to be a small increase, we would point out to the Committee that the penalty is assessed against the total delinquent tax and interest, as provided in subsection (a) of K.S.A. 79-2968, that accrues at a rate of one and one-half percent per month (18% annual interest).

During the 1989 session of the Kansas Legislature, this industry supported the comprehensive highway program that became law July 1, 1989. As one of the funding components of this legislation, the tax on all fuels was increased 4 cents on July 1, 1989, and will increase another 1 cent-per-gallon per year in 1990, 1991, and 1992. Currently,

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the state tax rate on diesel fuel is 17 cents-per-gallon combined with a federal diesel fuel tax of 15 cents-per-gallon for a total state and federal tax of 32 cents-per-gallon.

We feel that the present statutory penalty provisions are sufficient, coupled with the overall tax increases we are paying. We strongly resist any increase in the penalties currently authorized. The Kansas Motor Carriers Association will support the provisions of Senate Bill No. 483 provided the penalties for delinquent fuel taxes remain at 5%.

We thank you for the opportunity to appear before you today, and would be pleased to respond to any questions you may have.

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SENATE TRANSPORTATION & UTILITIES

Changes in Legislative Language
Senate Bill 486

(v) On and after the effective date of this act, no person shall act as a broker in the advertising, buying or selling of any new or used motor vehicle. Nothing herein shall be construed to prohibit a person duly licensed under the requirements of this act from acting as a broker in buying or selling the following: (1) a mobile home or manufactured home; or (2) a recreational vehicle as defined by K.S.A. 75-1212(f), and amendments thereto, when the recreational vehicle subject to sale or purchase is a used recreational vehicle which has been previously titled and independently owned by another person for a period of 45 days or more, or is a new or used recreational vehicle repossessed by a creditor holding security in such vehicle.

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TESTIMONY ON S.B. 485

AN ACT concerning fees for filing of security interests

Presented to the

SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

January 31, 1990

by the

KANSAS CREDIT UNION LEAGUE

Mr. Chairman, members of the Committee:

I am Jerel Wright, Governmental Affairs Director for the Kansas Credit Union League (KCUL). Our association represents 98% of the 147 state-chartered and 42 federally-chartered credit unions located in Kansas. KCUL member credit unions serve the personal financial needs of over 500,000 individual credit union members and have over \$1.5 billion in combined assets. Kansas credit unions range in asset size from \$29,000 to \$114 million and range in membership size from 58 to 43,000 members.

CREDIT UNIONS SUPPORT SB 485

As part of a loan transaction involving the use of a motor vehicle as collateral, every credit union routinely files a security interest in the motor vehicle. The security interest of the lienholder (credit union) is perfected by registering the credit union's lien on the title.

This can be done either by having the owner place the credit union's lien on the title when the car is registered with the county motor vehicles department or the credit union may, within

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10 days of the sale and delivery of the vehicle, mail or deliver the notice of security interest, to the Kansas Division of Motor Vehicles. The division will then register the lien when the title application is received from the county.

In either case, the credit union has no written verification of their lien which the Kansas State Department of Credit Unions (the regulatory agency for all 147 state-chartered credit unions in Kansas) requires to be in loan files in order to show that the credit union has a perfected security interest in a specific vehicle.

The new language on page 4, lines 29, 30 and 31 indicates that each county can provide a copy of the title application to the lienholder (credit union). This change will help solve the credit union's problem by having the county provide the written proof of lien to the credit union. For this reason, we support passage of SB 485.

Thank you, Mr. Chairman, for considering our comments. I am available for questions at your convenience.