

Approved 2-22-90  
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 February 20, 1990 in room 254-E of the Capitol.

~~All members were present except~~ Members present:

Senators Morris, Doyen, Francisco, Hayden, Kanan, F. Kerr, Martin, 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:

Teresa Machicao, American Civil Liberties Union

Hearing and Action on S.B. 616 - Relating to the displaying of obscene bumper stickers on motor vehicles.

Sen. J. Francisco had some samples of the obscene bumper stickers which he said were offensive to people driving on our highways. The bumper stickers were subjecting children just learning to read to this type of material. He said visitors to our great state should not be subjected to this. He said you could turn off the TV if the material was offensive and you did not have to read anything you did not approve of in magazines but when you were driving behind a car you could not avoid the bumper stickers.

Sen. Francisco said he realized he would be criticized for trying to stop freedom of expression but he felt the public did not want this and it was a shame that legislators had to try to legislate common decency.

The F.C.C. was prohibited from using seven words on the airwaves. A list of the seven words is attached. (Attachment 1). He proposed that instead of trying to stop these expressions they be limited in size to one-eighth inch lettering. He distributed a letter from Professor Normand dated February 11, 1990 thanking him for introducing the bill. A copy of the letter is attached. (Attachment 2).

The state had realized that decency might be a problem when it approved personalized license plates so steps had been taken to insure that these plates did not contain profane, vulgar, lewd or indecent meanings or connotations. A copy of K.S.A. 8-132 is attached. (Attachment 3).

Teresa Machicao, ACLU, said they oppose the bill and it would have a chilling effect on Constitutionally protected speech. She also said it would not pass the test for obscenity laid down by the Supreme Court. A copy of her statement is attached. (Attachment 4).

A conceptual motion to amend S.B. 616 was made by Sen. Francisco to not allow the seven words to be over one-eighth inches high on bumper stickers and give the Highway Patrol authority to stop the vehicles. Motion was seconded by Sen. Vidricksen. 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 February 20, 1990

A motion was made by Sen. Francisco to recommend S.B. 616 as amended, favorably for passage. Motion was seconded by Sen. Vidricksen. Motion carried.

On a motion from Sen. Hayden and a second from Sen. Sallee the Minutes of February 14 and February 15, 1990 were approved. Motion carried.

Meeting was adjourned at 9:30 a.m.

SENATE TRANSPORTATION AND UTILITIES COMMITTEE

Date 2-20 Place 254-E Time 9:02

GUEST LIST

NAME	ADDRESS	ORGANIZATION
Jeffrey W. Moore	TOPEKA	ACLU
Leresa A. Machicao	Topeka	ACLU
Rod Griffin	Lawrence	University Daily Kansan
Matt Truett	Topeka	AP
Pam Somerville	"	KOOT
Leroy Jones	"	B.L.E.
Tom Whitaker	"	Ks Motor Carriers Assn
Jim Oler	"	KC PAA
Pat Whitted	"	Ks. Railroad Assn.
Lt. Bill Jardis	"	KAP
Mary E. Turington	Topeka	Kansas Motor Carriers Assn.
M. Hanna	"	Capital - Journal
J. Balters	"	K.C. Times

SEVEN FORBIDDEN WORDS BY FCC

S H I T

P I S S

C U N T

F U C K

MOTHER FUCKER

GOD DAMN

COCK SUCKER

ATT. 1  
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February 11, 1990

Dear Senator Francisco,

I read about the bill you've introduced to make it illegal to put an obscene bumper sticker on a car and I think its a great idea. More power to you on that! My whole family resents seeing such trash on public display. I don't care if it is their car. Whenever it offends the general public, it should not be allowed. It is sending a wrong message to the young people of this nation.

Thank you for introducing the bill and I hope you can get it into law.

Sincerely,



Prof. Marcel Normand  
Colgan High School  
212 East 9th Street  
Pittsburg, Ks. 66762

ATT. 2  
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2-20-90

(3) an off-highway truck mounted with a fertilizer spreader used or manufactured principally to spread animal dung;

(4) road rollers and road machinery temporarily operated or moved upon the highways;

(5) municipally owned fire trucks;

(6) privately owned fire trucks subject to a mutual aid agreement with a municipality; or

(7) school buses owned and operated by a school district or a nonpublic school which have the name of the municipality, school district or nonpublic school plainly painted thereon.

Notwithstanding the other provisions of this subsection (a), no all-terrain vehicle shall be operated on any interstate highway, federal highway or state highway for agricultural purposes or any other purpose. No all-terrain vehicle may be operated within the limits of any first class city. No all-terrain vehicle shall be operated on any public highway, street or road between the hours of 1/2 hour after sunset until 1/2 hour before sunrise, unless equipped with lights as is required by law for motorcycles.

(b) Self-propelled cranes and earth moving equipment which are equipped with pneumatic tires may be moved on the highways of this state from one job location to another, or to or from places of storage delivery or repair, without complying with the provisions of the law relating to registration and display of license plates but shall comply with all the other requirements of the law relating to motor vehicles and shall not be operated on state maintained roads or highways on Sundays or any legal holidays except Lincoln's birthday, Washington's birthday or Columbus day.

**History:** L. 1929, ch. 81, § 6; L. 1933, ch. 72, § 1; L. 1957, ch. 58, § 1; L. 1961, ch. 46, § 1; L. 1967, ch. 57, § 5; L. 1972, ch. 19, § 1; L. 1976, ch. 40, § 3; L. 1977, ch. 29, § 1; L. 1980, ch. 30, § 1; L. 1981, ch. 34, § 1; L. 1984, ch. 27, § 2; L. 1988, ch. 40, § 2; May 26.

**Attorney General's Opinions:**

Registration of vehicles, exceptions; all-terrain vehicles. 85-62.

Registration of vehicles; all-terrain vehicles; operation. 85-63.

**CASE ANNOTATIONS**

1. State v. Groves, 7 K.A.2d 545; reversed, see, State v. Groves, 232 K. 66.

2. Concrete pump/boom truck is not a self-propelled crane or road machinery and is not exempt from motor vehicle registration. State v. Groves, 232 K. 66, 67, 68, 71, 72, 73, 74, 75, 653 P.2d 457 (1982).

**8-130.** Register of applications to be kept by division of vehicles. The division of vehicles shall maintain a register of applications received, and when satisfied as to the genuineness and regularity thereof, and that the applicant is entitled thereto, shall register the vehicle therein described as shall be determined by the division, and to have such accessible, so that the vehicle data can be properly located upon sufficient information given the division.

**History:** L. 1929, ch. 81, § 8; L. 1959, ch. 46, § 4; L. 1985, ch. 43, § 4; July 1.

**8-132.** License plates or decals to be furnished; time for new license plates; personalized license plates, display and cost; rules and regulations. (a) Subject to the provisions of this section and K.S.A. 1986 Supp. 8-1,125, the division of vehicles shall furnish to every owner whose vehicle shall be registered one license plate for such vehicle. Such license plate shall have displayed on it the registration number assigned to the vehicle and to the owner thereof, the name of the state, which may be abbreviated, and the year or years for which it is issued. The same type of license plates shall be issued for passenger motor vehicles, rented without a driver, as are issued for private passenger vehicles.

(b) During calendar year 1975 commencing on the effective date of this act, and during every fifth calendar year thereafter, the division of vehicles, shall furnish one license plate for any type of vehicle an owner registers or has the registration thereof renewed, but during the succeeding four-year period following calendar year 1975 and during the succeeding four-year period following every fifth calendar year subsequent to 1975, the division of vehicles shall not furnish any license plate for the renewal of a vehicle's registration. During calendar year 1976 and during each calendar year thereafter in which a license plate is not issued for the renewal of registration of a vehicle, the division of vehicles shall furnish one decal for the license plate issued for a vehicle as provided in K.S.A. 8-134, and amendments thereto, for each registration and renewal of registration of such vehicle. Notwithstanding the foregoing provisions of this subsection, whenever, in the discretion of the director of vehicles, it is determined that the license plates currently being issued and displayed are not deteriorating to the extent that their re-

placement, rules and issuance by one year the director one year at determines tended, at the new license manner and and regulat

(c) Two issued to a truck licen than 16,000 cation to the 60 days pri istration dat form presc panied by a dition to any registration the laws of license plate the vehicle on the front license plate motorcycle same manne for passage onalized lic the rear of t visions of th effective for all for the year visions of this shall be deen plates issued shall be paid period for w sued, and any registration p registration fo and amendm design distinc to be issued h more than se or passenger more than fi cycle license to be design the letters an 8-147, and am letters requir which such v letters or num

placement is warranted, the director may adopt rules and regulations to extend the five-year issuance cycle provided for in this subsection by one year at a time, and in the same manner the director may further extend such cycle by one year at a time, successively as the director determines appropriate. If the cycle is extended, at the expiration of the extended term, new license plates shall again be issued in the manner and for the term provided in such rules and regulations.

(c) Two personalized license plates may be issued to any owner of a passenger vehicle or a truck licensed for a gross weight of not more than 16,000 pounds, who makes proper application to the division of vehicles not less than 60 days prior to such owner's renewal of registration date. Such application shall be on a form prescribed by the division and accompanied by a fee of \$40, which shall be in addition to any other fee required to renew the registration of such passenger vehicle under the laws of this state. One such personalized license plate shall be displayed on the rear of the vehicle and the other shall be displayed on the front of the vehicle. One personalized license plate may be issued to any owner of a motorcycle upon proper application in the same manner provided in this subsection (c) for passenger vehicles and trucks. Such personalized license plate shall be displayed on the rear of the motorcycle. The changed provisions of this subsection (c) shall become effective for all personalized license plates issued for the year 1985 and thereafter, and the provisions of this subsection (c) which are changed shall be deemed not to be changed for license plates issued for use prior to 1985. Such fee shall be paid only once during the registration period for which such license plates were issued, and any subsequent renewals during the registration period shall be subject only to the registration fee prescribed by K.S.A. 8-143, and amendments thereto. The division shall design distinctive, personalized license plates to be issued hereunder which shall contain not more than seven letters or numbers on truck or passenger vehicle license plates and not more than five letters or numbers on motorcycle license plates, or a combination thereof, to be designated by the applicant in lieu of the letters and numbers required by K.S.A. 8-147, and amendments thereto, other than the letters required to designate the county in which such vehicle is registered. Unless the letters or numbers designated by the applicant

have been assigned to another vehicle of the same type registered in the same county, or unless the letters or numbers designated by the applicant have a profane, vulgar, lewd or indecent meaning or connotation, as determined by the director of vehicles, the division shall assign such letters or numbers to the applicant's vehicle, and the letters or numbers, or combination thereof, so assigned shall be deemed the registration number of such vehicle. Subject to the foregoing provisions, all license plates issued under this section shall be manufactured in accordance with K.S.A. 8-147, and amendments thereto. Such license plates shall be issued for a registration period of five years commencing in 1985 and each five years thereafter.

The secretary of revenue shall adopt rules and regulations necessary to carry out the provisions of this act, including, without limitation, rules and regulations concerning (1) the procedure for insuring that duplicate license plates are not issued in the same county, (2) the procedure for reserving distinctive license plates for the purpose of obtaining the same on each annual renewal of registration, (3) the procedure for allowing the transfer of personalized license plates from one vehicle to another for which such license plates were originally issued, when the title to the original vehicle has not been transferred and the name or names of the owner or owners listed on the titles to both vehicles are identical, and (4) procedures necessary to coordinate this act with other laws of this state governing registration of vehicles. The director of vehicles shall remit all moneys received by the division of vehicles under this section to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury to the credit of the state highway fund.

**History:** L. 1929, ch. 81, § 10; L. 1943, ch. 80, § 1; L. 1945, ch. 87, § 1; L. 1951, ch. 100, § 2; L. 1951, ch. 103, § 1; L. 1955, ch. 46, § 1; L. 1959, ch. 46, § 13; L. 1972, ch. 342, § 30; L. 1974, ch. 35, § 1; L. 1975, ch. 30, § 1; L. 1977, ch. 30, § 1; L. 1978, ch. 31, § 1; L. 1983, ch. 29, § 1; L. 1984, ch. 29, § 2; L. 1986, ch. 36, § 11; July 1.

I'm Gordon Risk, president of the American Civil Liberties Union of Kansas. I am here to testify in opposition to S.B. #616.

In Miller v. California (1) The Supreme Court laid down the test for obscenity in effect today: "The basic guidelines for the trier of fact must be: (a) whether 'the average person applying contemporary community standards' would find that the work, taken as a whole appeals to the prurient interest, (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law, and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value. (2) All three findings must be present. The court explicitly acknowledged that under Miller, "No one {may} be subject to prosecution for the sale or exposure of obscene materials unless these materials depict or describe patently offensively 'hard core' sexual conduct." (3) No bumper sticker I have seen meets the Miller test for obscenity. There will be no successful prosecutions.

The bill, if passed, however, can be expected to have a chilling effect on Constitutionally protected speech, as people not familiar with the standard set forth in Miller censor themselves to avoid prosecution. They will know that there is a law on the books outlawing "obscene" bumper stickers and will mistakenly imagine that the law applies to themselves. The free exchange of ideas will be curtailed. The legislature should do what it can to promote speech, even if it finds some of the speech offensive. It should emphatically not inhibit it. I urge you to vote against this bill.

- (1) Miller, 413 U.S. 15 (1973)
- (2) Miller, 413 U.S. at 24
- (3) Miller, 413 U.S. at 27

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