

Approved 3-25-91
Date

MINUTES OF THE House COMMITTEE ON Transportation

The meeting was called to order by Representative Herman G. Dillon at
Chairperson

1:34 ~~PM~~/p.m. on March 19, 1991 in room 519-S of the Capitol.

All members were present ~~except~~

Committee staff present:

Hank Avila - Legislative Research
Tom Severn - Legislative Research
Bruce Kinzie - Revisor of Statutes
Jo Copeland - Committee Secretary

Conferees appearing before the committee:

W. Robert (Bob) Alderson, Attorney for Ks. Manufactured Housing Assoc.
L. N. Collier, Attorney, Ks. Dept. of Rev., Division of Vehicles
Steve Stotts, Dept. of Revenue

Chairman Dillon entertained a motion to approve the March 4th, 5th, 6th, 8th, and 11th minutes. Representative Garner moved the motion and Representative Correll seconded that the minutes be approved. Motion carried.

SB 11 - Codification of laws pertaining to Manufacturing Housing.

Chairman Dillon called on Bob Alderson who testified in support of SB 11. (Attachment 1)

Questions and discussion followed.

Chairman Dillon introduced L. N. Collier who expressed support for the bill except for Section 4(f). (Attachment 2)

Questions and discussion followed.

Hearing ended on SB 11.

SB 283 - Repealing K.S.A. 79,34,148 reports on sales tax revenues for motor vehicles.

Steve Stotts, representing the Department of Revenue, explained the bill. He said that the statutes the Department wanted repealed requires them to certify to the Director of Legislative Research and Director of the Budget the percentage of retail sales tax which is collected on new and used motor vehicles. The Legislature never acted in response to these certifications. In 1989 when the Highway Bill (HB 2014) was passed the transfer of sales tax revenue to the State Highway Fund was set at 10%. They believe that this statute is not required anymore and would like to have it stricken from the statutes. This information is available from the Department upon request.

Questions and discussion followed.

Hearing ended on SB 283.

Meeting adjourned at 2:13 p.m.

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MEMORANDUM

TO: House Committee on Transportation

FROM: W. Robert Alderson, Attorney for
Kansas Manufactured Housing Association

RE: 1991 Senate Bill No. 11 (As Amended by Senate Committee)

DATE: March 19, 1991

The purpose of this memorandum is to provide the House Committee on Transportation with a brief overview of each section of 1991 Senate Bill No. 11 (as amended by Senate Committee). This bill was recommended by the Special Committee on Assessment and Taxation at the conclusion of its study under 1990 Interim Proposal No. 7. The focus of that study was 1990 Senate Bill No. 810, which was introduced by the Senate Committee on Federal and State Affairs, at the request of the Kansas Manufactured Housing Association (KMHA), toward the end of last session.

The primary sections of the bill are New Sections 1 through 12, which are referred to collectively as the Kansas Manufactured Housing Act. The remaining substantive sections of SB 11 (Sections 13 through 46) amend existing statutes so as to be consistent with the Kansas Manufactured Housing Act.

For the most part, these amendments either remove references to "manufactured home" or "mobile home" because such existing references will be superseded by provisions of the Kansas Manufactured Housing Act, or the amendments change terminology, so as to be consistent with the terms used in the Kansas Manufactured Housing Act, as defined in New Section 2 thereof.

The foregoing comments provide a background for the following statements concerning the sections of SB 11.

New Section 1. As noted above, the first twelve sections of SB 11 are new. They are designed to codify in a single location in the statute books nearly all of the pertinent statutory regulations and requirements regarding manufactured housing. The most significant exception to such codification is the statutory provisions relating to assessment and taxation of manufactured homes and mobile homes. In some respects, the so-called Mobile Home Tie Down Law will continue to be an exception to the proposed codification, although mobile homes are technically not manufactured homes.

The new sections will be referred to collectively as the Kansas Manufactured Housing Act.

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ATTACHMENT 1-1*

New Section 2. This section provides pertinent definitions for the Kansas Manufactured Housing Act. Of note are the definitions of "manufactured home" and "mobile home." Currently, there are a variety of definitions for these terms scattered throughout the statutes. SB 11, in enacting the Kansas Manufactured Housing Act and making corresponding statutory amendments, will provide a single definition for each of these terms. Equally as important is the fact that these definitions will be consistent with the definitions of these terms established pursuant to the National Mobile Home Construction and Safety Standards Act of 1974 [42 U.S.C. §5402(6) (1976)], and regulations adopted by the Secretary of Housing and Urban Development pursuant thereto.

Most of the remaining definitions in New Section 2 are derived from the definitions now contained in K.S.A. 1990 Supp. 8-2401, the definition section of the Vehicle Dealers and Manufacturers Licensing Act. As will be noted subsequently, all of the relevant provisions relating to manufactured homes and mobile homes contained in the existing act will be removed by amendment and restated in the Kansas Manufactured Housing Act.

New Section 3. Even under existing law, manufactured homes and mobile homes are not defined as vehicles. (Vehicles "transport" persons or property; manufactured homes and mobile homes are "transportable.") Yet, many of the statutory regulations pertaining to manufactured homes and mobile homes are contained in the statutory provisions relating to the registration and titling of vehicles. New Section 3 restates and clarifies the fact that manufactured homes and mobile homes are not vehicles, and it further provides that they are not subject to regulatory provisions pertaining to vehicles, including statutory regulations regarding the registration and titling of vehicles and those regulating the manufacture, distribution and sale of vehicles.

However, this section makes it clear that, whenever a manufactured home or mobile home is moved upon the state's streets and highways, such movement is governed by the provisions of the Uniform Act Regulating Traffic on Highways that are applicable to the movement of house trailers. (See Section 17, amending K.S.A. 1990 Supp. 8-1911.)

New Section 4. Under certain conditions, manufactured homes and mobile homes are regarded as personal property and are classified, assessed and taxed as personal property. Thus, there must be some means for evidencing ownership of manufactured housing under these conditions. This is currently accomplished by issuing certificates of title to manufactured homes and mobile homes, pursuant to the statutes providing for the registration and titling of vehicles. As previously noted, though, manufactured homes and mobile homes are not vehicles, and one of the principal purposes of SB 11 is to remove all references to manufactured homes and mobile homes from the vehicle titling and registration statutes. However, New Section 4 restates the relevant provisions of these statutes, although provision is made in subsection (b) for the issuance of a distinctive certificate of title which is to be distinguishable from certificates of title issued to vehicle owners. At the request of KMHA, the Senate Committee on Transportation and Utilities amended Subsection (b), to specify the information to be included on the distinctive certificate of title.

New Sections 5 through 11. One of the primary purposes of enacting the Kansas Manufactured Housing Act is to exclude persons engaged in manufacturing, distributing or selling manufactured homes or mobile homes from the regulations provided in and pursuant to the Vehicle Dealers and Manufacturers Licensing Act (K.S.A. 8-2401 et seq.). As previously noted, manufactured homes and mobile homes are not vehicles, and efforts to regulate their manufacture, distribution and sale concurrently with the regulation of the manufacture, distribution and sale of vehicles has been cumbersome, at best. New Sections 5 through 11 restate the provisions of the Vehicle Dealers and Manufacturers Licensing Act which have relevance to the regulation of persons engaged in manufacturing, distributing or selling manufactured homes and mobile homes. These new sections do not represent any significant change in existing law.

Subsections (d) and (e) of New Section 11 are substantially the same as subsections (a) and (b), respectively, of K.S.A. 1990 Supp. 8-2411 and were added by amendment of the Senate Committee. The amendment was proposed by KMHA in response to a concern expressed by the Legal Department of the Department of Revenue as to the procedure to be utilized under SB 11 in handling violations of the Kansas Manufactured Housing Act by licensees under that act.

New Section 12. The original Section 12 was substantially rewritten, at the joint request of KMHA and the League of Kansas Municipalities. As rewritten, it prohibits state and local governmental units from imposing on a manufactured home any construction or safety standard that is not identical to the Federal Manufactured Home Construction and Safety Standards that are applicable to the same aspect of performance. However, such prohibition does not apply to standards applicable to buildings open to the public for the purpose of providing services or products to the public.

Section 13. K.S.A. 1990 Supp. 8-126, which is the definition section for the statutes governing the registration of vehicles, is amended by Section 13 of SB 11. This section highlights one of the primary reasons noted above for promulgating a separate enactment pertaining to manufactured homes and mobile homes. By definition in this statute and elsewhere throughout the Kansas statutes, neither a manufactured home nor a mobile home is a vehicle.

Accordingly, the amendment to 8-126 in Section 13 deletes the definition of "manufactured home" and, in order to avoid redesignating the subsections which follow the definition of "manufactured home," a definition of "division" is inserted in lieu thereof. The latter is a useful definition, but included primarily for convenience.

Section 14. This section amends K.S.A. 1990 Supp. 8-135, which contains the provisions for titling vehicles. The amendments merely delete all references to manufactured homes and mobile homes.

Section 15. K.S.A. 1990 Supp. 8-143 prescribes the procedure and fees necessary to register various classes of vehicles. It is amended to remove all references to manufactured homes and mobile homes.

Section 16. K.S.A. 8-1425 is one of the definition sections of the Uniform Act Regulating Traffic on Highways. It defines "house trailer," and as amended by Section 16, the defined term will not include a manufactured home or mobile home.

Section 17. K.S.A. 1990 Supp. 8-1911 also is a section of the Uniform Act Regulating Traffic on Highways. Even though manufactured homes and mobile homes are not vehicles and, thus, are not subject to this act, subsection (g) is amended by Section 17 to preserve the requirement that a manufactured home or mobile home which exceeds the lawful width requirements must obtain a permit and comply with the other requirements of subsection (g), in order to be moved upon the state's highways. Subsection (g) is further amended by providing that the definitions of "manufactured home" and "mobile home" are as provided in the Kansas Manufactured Housing Act.

Sections 18 through 26. Various sections of the Vehicle Dealers and Manufacturers Licensing Act are amended by these sections, so as to specifically exclude from this act persons engaged in manufacturing, distributing or selling manufactured homes or mobile homes and currently licensed under this act. As previously noted, New Sections 5 through 11 restate and incorporate the pertinent provisions of this act into the Kansas Manufactured Housing Act.

Section 27. This section amends K.S.A. 1990 Supp. 12-5221, which is the definition section of the Local Residential Housing Finance Law. Currently, subsection (g) defines "home" to include "manufactured housing" which meets the building codes of the city or county. This provision is stricken in SB 11, and in lieu thereof, "home" includes any manufactured home, as defined in Section 2 of the Kansas Manufactured Housing Act. This amendment is consistent with New Section 12, which precludes local governmental entities from requiring that manufactured homes comply with standards other than the Federal Manufactured Home Construction and Safety Standards.

The definition of "home" also includes a mobile home as defined by K.S.A. 8-126(v), which has a permanent foundation. This provision is amended only to change the definitional reference to Section 2 of the Kansas Manufactured Housing Act.

Sections 28 through 31. These sections make technical amendments to four sections of the Kansas Criminal Code. Two of these sections (21-3715 and 21-3716) currently reference a "mobile home," and they are amended so as to also reference a "manufactured home."

K.S.A. 21-3757 currently prescribes certain unlawful acts with respect to a motor vehicle's odometer. The amendment proposed by SB 11 clarifies the fact that manufactured homes and mobile homes are not vehicles and, therefore, not subject to this section's provisions.

K.S.A. 1990 Supp. 21-3758 makes it unlawful to transfer ownership to any vehicle or mobile home, without identifying the transferor on the transferred certificate of title. The amendment also makes this section applicable to manufactured homes.

Section 32. K.S.A. 58-227 provides for liens upon mobile homes. It is amended to extend its provisions to manufactured homes, as well.

Section 33. K.S.A. 58-2543 is the definition section of the Residential Landlord and Tenant Act. The definition of "dwelling unit" currently includes a mobile home, and it is amended by Section 33 so as to also include a manufactured home.

Section 34. A homestead is exempt from distribution under the Kansas Probate Code pursuant to the provisions of K.S.A. 59-401, which currently includes a mobile home within the definition of "homestead." Section 34 amends this statute to also include a manufactured home.

Section 35. The exemption of a person's homestead from forced sale is provided by K.S.A. 60-2301, a section of the Code of Civil Procedure. It currently includes a mobile home within the parameters of a homestead, and Section 35 would amend it to also include a manufactured home.

Section 36. K.S.A. 75-1226 provides the definitions for an act which is unofficially styled as the Mobile Home Tie Down Law. This statute is amended by Section 36 so as to define "mobile home" by reference to Section 2 of the Kansas Manufactured Housing Act.

Section 37. K.S.A. 77-201 prescribes certain rules of statutory construction applicable to all Kansas statutes. Included in its provisions are definitions of various terms which are to have application wherever these terms are used in the Kansas statutes, unless such definition would be inconsistent with legislative intent or repugnant to the context of the statute. Section 37 would amend this statute so as to include definitions of "manufactured home" and "mobile home" that are identical to the definitions of these terms included in Section 2 of SB 11.

Sections 38 through 41. These sections amend K.S.A. 79-335, 79-336, 79-337 and 79-340, respectively, so as to clarify the requirements for listing manufactured homes and mobile homes for taxation. The requirement that the listing be made at the time of registration or renewal of registration pursuant to the vehicle registration statutes is eliminated, consistent with the provisions of the Kansas Manufactured Housing Act and other amendatory sections. In addition, the pertinent terminology contained in Section 2 of the Kansas Manufactured Housing Act is made applicable to these sections.

Section 42. The only amendment made by this section to K.S.A. 79-3606, a section of the Kansas Retailers' Sales Tax Act, is to define "mobile homes" and "manufactured homes" in subsection (d) by reference to the definitions of these terms in Section 2 of the Kansas Manufactured Housing Act.

Section 43. This section amends K.S.A. 79-4502, a section of the Homestead Property Tax Refund Act. The definition of "homestead" in this statute currently includes a mobile home, and the amendment adds a manufactured home to this definition.

Section 44. K.S.A. 79-4511 also is a section of the Homestead Property Tax Refund Act. It currently requires that the amount of personal property taxes levied on a mobile home shall be set out on the personal property tax statement as a separate item. The amendment extends this requirement to personal property taxes levied on a manufactured home, as well.

Section 45. K.S.A. 79-5101 currently defines "motor vehicle" to include all motor vehicles required to be registered under Article 1 of Chapter 8 of the Kansas Statutes Annotated, with certain exceptions. One of these exceptions is "mobile homes." That exception is totally unnecessary, since manufactured homes and mobile homes are not motor vehicles. Section 45 amends this statute to eliminate that exception.

Section 46. This section, amending K.S.A. 8-1578, was added by Senate Committee amendment. The amendment was suggested by the Highway Patrol because of the definitional changes effected by SB 11. As a result of these proposed changes, a mobile home or manufactured home will no longer be regarded as a "house trailer" when it is moved on the highways. Thus, the prohibition in K.S.A. 8-1578 against riding in a house trailer being moved upon a public highway would not be applicable to a mobile home or manufactured home being transported upon a public highway, and it was necessary to amend this statute to extend its prohibition to mobile homes and manufactured homes.



KANSAS DEPARTMENT OF REVENUE

Division of Vehicles

Robert B. Docking State Office Building
Topeka, Kansas 66626-0001

TO: House Transportation Committee

FROM: L. N. Collier, Attorney
Kansas Department of Revenue
Division of Vehicles

DATE: March 19, 1991

RE: Senate Bill No. 11

The Kansas Department of Revenue and the Kansas Manufactured Housing Association agree in a number of areas on the content of SB-11. An area of divergence, though, is the bill's Section 4(f).

Section 4(f) provides, generally, for the delivery of titles for used manufactured homes and mobile homes. The section tracks, generally, the language found in K.S.A. 8-135(c)(7) which requires title to used motor vehicles to be delivered at the time of the sale or within thirty days thereafter or the sale is "void and fraudulent". The same concerns which resulted in K.S.A. 8-135(c)(7) exist with respect to manufactured housing which by SB-11 will be required to be titled by documents issued the Division of Motor Vehicles: the free alienability of the subject property, the titling and registration of the property, getting the property as expeditiously as possible on the tax rolls, providing the Division with the enforcement mechanism necessary to administer the dealer licensing laws and other genuine problems which will exist without the necessary language.

For these reasons and others apparent to the Committee, the Department of Revenue requests amendment of Section 4(f) to conform to the language of K.S.A. 8-135(c)(7) and the common law.