

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 19, 1991 in room 254-E of the Capitol.

~~All members were present except~~ Members present: Senators Morris, Doyen, Brady, Hayden, Kanan, F. Kerr, Martin, Rock, 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:

Ed Schaub, KPL Gas Service
Alan Alderson, Kansas County Treasurers Association
Pam Somerville, Kansas Motor Car Dealers Association
Norman Sherbert, General Motors Corporation, Denver, Colo.
Barry Coughlin, Ford Motor Co., Leawood
Terry Humphrey, Kansas Manufactured Housing

Requests for Committee Bills

Ed Schaub said his request was to update a statute which mandated that notice of an accident in a public utility had to be given by telegraph. This was written in 1923 and his suggested bill would update the statute. A copy of his suggested bill is attached. (Attachment 1).

A motion was made by Sen. Thiessen and was seconded by Sen. Hayden to introduce the proposed bill as a committee bill. Motion carried.

Alan Alderson said his bill request was necessary because of certain practices now taking place in regard to salaries of the county treasurers. The county treasurers are entitled to additional compensation for administering the motor vehicle laws of the state and some counties are reducing their salaries. This was not the original intent of the legislature and this bill would clarify that payment made to them was in addition to their salary. A copy of the proposed bill is attached. (Attachment 2).

A motion was made by Sen. Vidricksen and was seconded by Sen. Thiessen to introduce the proposed bill as a committee bill. Motion carried.

Sen. F. Kerr said he had two bills which pertained to railroad abandonment. The first one would guarantee loans to keep the railroads running. (A copy of this proposed bill, 1 RS 1005, is on file in this office). The second proposed bill has to do with the power of the Secretary of Transportation in regard to the railroads. (A copy of this proposed bill, 1 RS 1004, is on file in this office).

A motion was made by Sen. F. Kerr to introduce the two bills as committee bills. Motion was seconded by Sen. Vidricksen. Motion carried.

Pam Somerville had a bill request which would establish a relevant market area law for car dealers in the state of Kansas. A copy of her proposed bill and her statement is attached. (Attachment 3). She said this proposal was not an attempt to prevent new dealers in the state but rather they are proposing that the manufacturer be required to notify an existing dealer of the intent to place a new dealer in their relevant market area.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,

room 254-E, Statehouse, at 9:02 a.m./~~p.m.~~ on February 19, 1991

Norman Sherbert, GM, said all domestic manufacturers have something in place to handle these situations. They generally oppose such legislation because it is anti-competition. It usually raises the price of a product. They have an arbitration system in place and this eliminates high costs. He had a suggested amendment to the proposed bill which would accommodate those manufacturers who already have something in place. A copy of his proposed amendment is attached. (Attachment 4).

Barry Coughlin, Ford, said they already have an arbitration system in place and they handle their own disputes. Their system has worked well and they are proud of it. Disputes can cost a lot of money. The dealer has the right to appeal. They support the amendment.

A motion was made by Sen. Hayden to introduce the proposed bill as a committee bill, without the amendment. The motion died for lack of a second.

A motion was made by Sen. Martin to introduce the bill as a committee bill with the proposed amendment. Motion was seconded by Sen. Doyen. Motion carried.

Action on SB 11 - Codification of laws pertaining to manufactured housing.

Terry Humphrey said there had been a question raised by the League of Municipalities concerning Sec. 12 of the bill. Both parties had resolved their differences with an amendment. A copy of the proposed amendment is attached. (Attachment 5).

Bruce Kinzie said he had a request from the Highway Patrol for an amendment to the bill to insure that no passengers could ride in the back of a mobile home. There were also some technical amendments to the bill. A motion was made by Sen. Doyen and was seconded by Sen. Thiessen to adopt the proposed amendments. Motion carried.

A motion was made by Sen. Doyen to recommend SB 11 as amended, favorably for passage. Motion was seconded by Sen. Rock. Motion carried.

Action on SB 71 - Commercial Drivers License; exempt vehicles.

There had been a request from the Kansas Livestock Association to exempt feed trucks. The committee had been told that the exemption could put the bill in jeopardy. If the exemption later receives federal approval it could be put on in the House.

A motion was made by Sen. Hayden to adopt the amendment for feed trucks and recommend the bill for passage. Motion was seconded by Sen. Thiessen.

A substitute motion was made by Sen. Rock to recommend SB 71 favorably for passage. Motion was seconded by Sen. Kerr. Motion carried.

A motion was made by Sen. Hayden and was seconded by Sen. Doyen to approve the Minutes of February 6, 1991. Motion carried.

Meeting was adjourned at 9:45 a.m. Next meeting February 20, 1991.

SENATE TRANSPORTATION AND UTILITIES COMMITTEE

Date 2-19-91 Place 254-E Time 9:02

GUEST LIST

NAME	ADDRESS	ORGANIZATION
Pam Smernik	TOPEKA	KS Motor Car Dealers Assoc.
Anne Smith	Topoka	Ks. Assoc. of Counties
Roger W BARR	TOPEKA	T. G. U.
Betty McBride	Columbus	H. County Transp. Assoc.
Nancy Hemper	Lawrence	also Co. Treasurer
ACAN ANDERSON	TOPEKA	KS. Co. TREASURERS
NORMAN SHELBERT	DEW, COLO	GENERAL MOTORS CORP.
BARRY COUGHLIN	LEAWOOD KS	FORD MOTOR CO.
Kevin Alb	Topoka	Ks. Motor Car Dealers Assn.
Henry Humphrey	"	KMHA
Rich McKee	Topoka	KLA
John C. Rottenbury	TOPEKA	KPL-GAS Service
ED SCALUS	Topoka	KPL-GAS Service

66-132. Accidents; notice to commission; investigations. Every common carrier and every public utility governed by the provisions of this act shall, whenever an accident attended with loss of human life or serious personal injury occurs upon its premises within this state, ~~give immediate notice thereof by telegraph to the commission.~~ In the event of any such accident, the commission, if it deem the public interest requires it, shall cause an investigation to be made forthwith, in connection with the state labor commissioner, as now provided by law, which investigation shall be held in the locality of the accident, unless for greater convenience of those concerned it shall order such investigation to be held at some other place. Said investigation may be adjourned from place to place as may be found necessary and convenient. The commission shall seasonably notify an officer or agent of the public utility or common carrier of the time and place of the investigation.
History: L. 1911, ch. 238, § 32; May 22; R.S. 1923, 66-132.

telephone, or teletype. If notice is given by telephone, it shall be followed by a written notice sent by certified or registered mail.

to the commission

Senate Bill No. _____

By Committee on Transportation and Utilities

AN ACT relating to the compensation of county treasurers; prohibiting certain acts.

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

Section 1. No county treasurer shall be paid, as a gross salary from county funds other than the special fund created under K.S.A. 1990 Supp. 8-145, an amount less than the average gross salary paid from county funds to the other full-time county-wide elected officials in that county. Amounts payable to any county treasurer pursuant to K.S.A. 1990 Supp. 8-145 for administering the motor vehicle laws of the state, shall be in addition to the amounts payable as hereinbefore provided, shall be computed according to K.S.A. 1990 Supp. 8-145 and shall not be subject to charter resolution, charged with expenses, or otherwise controlled, directly or indirectly, by any governing body or person other than the county treasurer. Any resolution or other action in contravention of the provisions of this section shall be null and void, whether or not said resolution or action was taken prior to the effective date of this act.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

ATT. 2
T&U
2/19/91



KANSAS MOTOR CAR DEALERS ASSOCIATION

800 Jackson, Suite 808 • Topeka, Kansas 66612 • (913) 233-6456 • (800) 825-0169 (KS only) • FAX (913) 233-1462



February 19, 1991

Mr. Chairman and members of the Committee:

Thank you for the opportunity to appear before you today to request legislation of great importance to the new franchised car dealers in the state of Kansas.

The Kansas Motor Car Dealers Association, a trade association representing 329 new franchised car and truck dealers in Kansas, proposes to establish a relevant market area law for the state of Kansas. Simply stated, a relevant market area law would establish criteria for a dealer's response when a manufacturer intends to place a new dealership within an existing dealer's market area. An example would be a new Ford dealership within an existing Ford dealer's area of responsibility as defined in their Sales and Service Agreement. To further illustrate, an article appearing in The Kansas City Star, dated December 30, 1990, is attached. The article primarily discusses big dealers taking over small dealers, but more importantly, illustrates the concentration of dealers in the Kansas City Metro area.

A proposed bill draft is attached for your review. The legislation amends the vehicle dealers' and manufacturers' licensing act, and would require the manufacturer to notify the Director of Vehicles in the event the manufacturer proposed placing a new same line-same make dealership within the existing automobile dealer's territory. The Director of Vehicles

ATT. 3
T&U
2/19/91

would then notify the affected dealer(s), and the Director would also be required to publish the notice in the Kansas Register. The dealer would then have thirty days to respond to the Director of Vehicles, in writing, to protest. A hearing would be held based on established criteria, and a decision rendered. On page 3 of the bill draft, good cause is defined, and page 4 lists the criteria in detail.

I would like to stress to the committee that our proposal is not an attempt to prevent new dealers in our state, but rather we are simply proposing that the manufacturer be required to notify an existing dealer of the intent to place a new dealer in their relevant market area.

Once again, thank you for the opportunity to appear today. I would be happy to respond to questions.

By Committee on Transportation and Utilities

AN ACT amending the vehicle dealers' and manufacturers' licensing act; concerning the establishment, addition or relocation of new vehicle dealers; requirements; burden of proof; relevant market area; prohibitions; effect of non-compliance.

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

Section 1. (a) Any licensee, or proposed licensee, who proposes to establish an additional new vehicle dealer for new motor vehicles or permit the relocation of an existing new vehicle dealer in new motor vehicles to a location within the relevant market area where the same line-make vehicle is already presently represented by a new vehicle dealer or dealers in new motor vehicles of that same line-make shall ~~give written notice of its intention by certified mail to the director of vehicles~~ and shall establish good cause for adding or relocating the new vehicle dealer. The notice required hereunder shall state:

(1) The specific location at which the additional or relocated new vehicle dealer in new motor vehicles will be established;

(2) The date on or after which the licensee, or proposed licensee, intends to be engaged in business as a new vehicle dealer in new motor vehicles at the proposed location;

(3) The identity of all new vehicle dealers in new motor vehicles who are franchised to sell the same line-make

vehicle from licensed locations whose relevant market areas include the location where the additional or relocated dealer is proposed to be located;

(4) The names and addresses of the new vehicle dealer-operator and principal investors in the proposed new vehicle dealer's business; and

(5) A short and plain statement of the evidence the licensee, or proposed licensee, intends to rely upon in meeting the burden of proof for establishing good cause for an additional new vehicle dealer for new motor vehicles or permit relocation of an existing new vehicle dealer in new motor vehicles within a relevant market area where the same line-make of vehicle is presently represented by a new vehicle dealer.

Immediately upon receipt of such notice the director shall cause a notice to be published in the Kansas Register. The published notice shall state that a petition or complaint by any dealer with standing to protest pursuant to subsection (c) must be filed with the director not more than 30 days from the date of publication of the notice in the Kansas Register. The published notice shall describe and identify the proposed new vehicle dealer and dealership sought to be licensed, and the director shall cause a copy of the notice to be mailed to those dealers identified in the notice under paragraph (3), above.

(b)(1) An application for a new vehicle dealer license to act as a vehicle dealer in new motor vehicles in any community or county shall not be granted when the licensee, or proposed licensee, seeking to establish an additional new vehicle dealer or relocate an existing new vehicle dealer in the same line-make of vehicles fails to comply with the requirements of this act, or when:

(i) A timely protest is filed by a presently existing new vehicle dealer in new motor vehicles with standing to protest as defined in subsection (c), and

(ii) ~~The director has held a hearing and determined that there is good cause for not permitting the addition or relocation of such new vehicle dealer.~~ The burden of proof in establishing good cause to permit an additional new vehicle dealer in new motor vehicles or to permit the relocation of an existing new vehicle dealer in new motor vehicles as set forth herein shall be on the licensee, or proposed licensee, seeking to establish or relocate a new vehicle dealer and shall be by a preponderance of the evidence presented.

(2) In determining whether good cause has been established for an additional new vehicle dealer or the relocation of an existing new vehicle dealer for the same line-make of vehicle as provided herein, the director shall take into consideration the existing circumstances, including, but not limited to:

(i) Permanency of the investment of both the existing and proposed new vehicle dealers.

(ii) Growth or decline in population and new car registrations in the relevant market area.

(iii) Effect on the consuming public in the relevant market area.

(iv) Whether it is injurious or beneficial to the public welfare for an additional new vehicle dealer to be established.

(v) Whether the new vehicle dealers of the same line-make vehicles in that relevant market area are providing adequate competition and convenient customer care for the vehicles of the line-make in the market area which shall include the adequacy of vehicle sales and service facilities, equipment, supply of vehicle parts and qualified service personnel.

(vi) Whether the establishment of an additional new vehicle dealer would increase competition and whether such increased competition would be in the public interest.

(vii) The effect a denial of relocation will have on a relocating dealer.

(viii) The effect the new vehicle dealer addition or relocation which is proposed will have on the existing dealer or dealers.

The application for a new vehicle dealer license shall

not be denied after the applicant meets the requirements of this section if the applicant otherwise meets the requirements of the vehicle dealers and salesmen licensing act.

(c) An existing new vehicle dealer in new motor vehicles shall have standing to protest the proposed addition or relocation of a new vehicle dealer in new motor vehicles where such existing new vehicle dealer in new motor vehicles has a franchise agreement for the same line-make vehicle as that which is to be sold or offered for sale or transfer by the proposed additional or relocated new vehicle dealer and is physically located such that the protesting dealer's relevant market area, as defined in this section, includes the location where the additional or relocated dealer is proposed to be located.

(d) The director shall not issue a license for the proposed additional or relocated new vehicle dealer until a final decision is rendered determining good cause exists for establishing an additional new vehicle dealer or relocating a new vehicle dealer and that the application for the new vehicle dealer's license should be granted.

(e) The words or phrases used in this section shall have the meanings otherwise provided by law, except the following specific words or phrases shall have the following meanings:

(1) "Line-make vehicle(s)" are those new motor vehicles

which are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the manufacturer or distributor of the same; and

(2) "Relevant market area" means the area within a radius of twenty (20) miles around an existing new vehicle dealer in new motor vehicles or the area of responsibility defined in the franchise agreement of the existing dealer, whichever is greater.

(f) No person, entity, licensee or their agents or employees, shall require the relocation, cancellation or termination of an existing dealer or otherwise take any action to penalize any dealer who exercises the rights provided under this section, or undertake such action for the purpose of preventing or avoiding the exercise by a dealer of the rights provided under this section. No franchise agreement made, entered or renewed after the effective date of this act shall contain provisions which avoid or circumvent the requirements of this act.

(g) A dealer's license may be denied, suspended or revoked, or the renewal of a dealer's license may be refused by the director for the dealer's failure to comply with this act or for otherwise violating its provisions.

(h) Any licensee, or proposed licensee, aggrieved by a final order of the director may appeal as provided in K.S.A. 1990 Supp. 8-2410(d).

Section 2. This act shall take effect and be in force from and after its publication in the Kansas register.

SUNDAY Business

December 30, 1990

THE KANSAS CITY STAR

Section E

New-car market shifting

Growth of megadealers poses consumer concerns.

By DON LEE
Staff Writer

Amid rising operating costs and shrinking car and truck sales, more area dealerships are failing and being forced to sell their businesses, often to big dealers who are getting bigger.

In the last several months, about 10 new-car retailers in the area have been closed. Some collapsed under the weight of heavy debts, but others were gobbled up by bigger dealers.

"The car business is tough. . . I'm afraid you're going to find it happening more and more," said Scott Adams, general manager of Adams Toyota-Isuzu in Raytown and president of the Car Dealers Association of Greater Kansas City.

The trend toward greater contraction and concentration is nationwide, and has raised concerns about what that may mean for consumers. But turnovers are taking place at a heady pace in this area, a fact experts attribute partly to the overcrowded dealership market.

With about 110 outlets, the Kansas City area has more new-car retailers than many other cities, including St. Louis and Denver, which have larger metropol-

Turning over the keys

More dealerships in the Kansas City area are changing hands. Some are being forced out of the business by rising operating costs and slower car sales. But many dealers also say the trend is more acute here because Kansas City has more dealers per capita than many other cities. Here are some of the dealership changes.

Area dealership changes in 1990

Dealer	Location	Type of change
Doug's Dodge	Independence	New owner
Douglas Toyota	Olathe	New owner
Heart Volkswagen-Subaru-Lotus	Merriam	Closed
John Caster Ford	Kansas City	New owner
Mitchell Lincoln Mercury	Kansas City	New owner
Olathe Hyundai	Olathe	Closed
Parkway Mitsubishi	Overland Park	New owner
Summit Dodge	Lee's Summit	New owner
Stone Oldsmobile	North Kansas City	New owner
Victory Jeep/Eagle	Independence	Closed

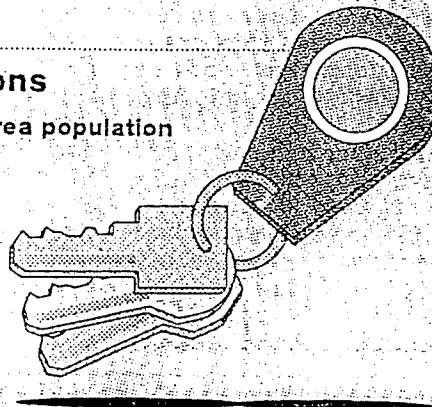
Source: The dealers

Area dealership comparisons

City	Total dealers	Metro area population (millions)
Kansas City	110	1.575
St. Louis	100	2.467
Indianapolis	87	1.237
Denver	65	1.64

Source: Census Bureau; state dealers' associations

NOTE: Population estimates for 1988



DAVE EAMES/The Star

"I think there're too many dealers," said Robert Hewlett, a partner at Bob Allen Ford Inc. in Overland Park and Metro Ford Inc. in Independence. And with car sales generally flat, he said, "the pie keeps getting thinner."

Indeed, that was the main reason

Hewlett and other Ford dealers in the area challenged the recent sale of John Caster Ford on 82nd and Wornall to megadealer Cecil Van Tuyl. Ford dealers wanted the manufacturer to eliminate the dealership, but the protest was

See **KC, E-7, Col. 1**

KC area has more new-car dealerships than St. Louis, Denver

Continued from E-1

denied.

With the purchase from Caster, who reportedly had difficulty meeting sales expectations, Van Tuyl last week moved Caster Ford to his auto mall on 103rd and State Line. Van Tuyl, one of the country's biggest dealers, owns or has interest in about 10 dealerships in the area and about 30 nationwide. Van Tuyl could not be reached for comment.

Among other area dealerships that have changed hands recently, Douglas Toyota in Olathe was acquired by owners of Dennis Auto Plaza; Stone Oldsmobile in North Kansas City by Jack Miller, who owns two other dealerships in the Northland; and Parkway Mitsubishi in Overland Park by the owner of nearby O'Neill Oldsmobile-Honda.

The latest change came Christmas Eve, when the Jay Wolfe Automotive Group signed an agreement to buy Raytown Nissan and Kansas City Volvo, two separate dealerships that stood next to each other and were run by two partners. The Wolfe group, which owns five other dealerships, including three in the area,

expects to take over the Nissan and Raytown stores in January.

Some dealers say such changes will benefit consumers. Bigger dealers, they note, often offer a wider variety of cars because they have deeper pockets and more clout with manufacturers.

With the multiple-car dealer, "you don't get somebody that's desperate," said Adams of Adams Toyota-Isuzu. "A lot of dealerships that are desperate don't do things that are right."

Adams estimated that the top five dealers in the area controlled about 20 percent of the new-car market. In 1988, the National Auto Dealers Association said 10 percent of the dealers accounted for 40 percent of all new vehicle sales in the United States.

To some critics, however, the growth of the megadealer warrants concern. Greater concentration, they argue, could mean higher prices set by dealership cartels and fewer choices for consumers in the way cars are sold and negotiated.

"I've always felt the more dealerships you have the better off consumers are," said Charlie

Fisher, president of Charlie Fisher Buick-Chevrolet-Geo in Midtown.

Yet in many ways, dealers are getting bigger, Fisher and others say, because they have to.

The cost of operating a dealership is rising, but the market isn't expanding. That's forced dealers to seek economies of scale and double-up on services and operations when they can.

"Back in 1972 we had a lot of cars that cost under \$3,000," said Jack Miller, who in October bought Stone Oldsmobile in North Kansas City. "Now, the cheapest car we have is closer to \$10,000."

Miller added: "We have to stock more parts. We have more models. Training for service people is more extensive."

Said Fisher, who a year ago took over the struggling Rizzo Chevrolet: "The increased competition has caused dealers to have two or three or four franchises to pay for the overhead. By having more franchises, you can share expenses with a number of lines of cars. It just gives you a lot more options."

The big dealers did not always

dominate the scene. Many area dealers remember when most cars were sold by the mom-and-pop dealer who marketed one manufacturer's vehicles at one location. But in the last few years, the landscape of car-sellers has changed dramatically.

In the last year, there was a net loss of 500 dealerships in the United States, the largest decline since the early 1980s, according to Tom Webb, chief economist at the National Automobile Dealers Association. The number of U.S. dealerships has been dropping steadily since the early 1980s.

But in the Kansas City area, until recently there's been a net increase of about 30 dealerships following the 1981-82 recession. Experts say a growing number of import retailers have added to a domestic dealership base that has traditionally been big because of the large geographical area of metropolitan Kansas City and the city's heavy production of automobiles.

But also, despite declining market shares, domestic manufacturers have resisted an outright closing of locations, choosing

rather to encourage unprofitable dealers to find a buyer.

Dealer representatives in the area for the Big Three automakers couldn't be reached for comment last week.

So some area dealers and experts view the current shake-up as inevitable, and they think the trend will only continue.

"Business has been a little bit tight for the last three or four months," said Ralph Kalberloh, executive vice president of the Missouri Automobile Dealers Association, which represents 559 dealers in the state. "When that happens, there are probably dealers who have an opportunity to sell. They don't want to risk too much."

Lee Major, who runs Major Cadillac-Pontiac in Midtown, thinks dealers in new locations or those carrying heavy debts will be particularly vulnerable in 1991, a year that Major expects will see flat car sales or worse if the Middle East situation leads to war.

"I don't think you're going to see blood in the streets," Major said. "But in '91 you're going to see a lot of dealers change hands."

IF A MANUFACTURER, DISTRIBUTOR OR FACTORY BRANCH PROVIDES A DISPUTE RESOLUTION MECHANISM FOR THE ESTABLISHMENT OF AN ADDITIONAL NEW MOTOR VEHICLE DEALER OR FOR RELOCATING A NEW MOTOR VEHICLE DEALER WHICH MEETS THE CRITERIA CONTAINED HEREIN, THEN THE PREVIOUS SECTIONS OF THIS (ACT) SHALL NOT BE APPLICABLE TO ANY PROPOSED ESTABLISHMENT OF AN ADDITIONAL NEW MOTOR VEHICLE DEALER OR RELOCATION OF AN EXISTING NEW MOTOR VEHICLE DEALER BY THE MANUFACTURER, DISTRIBUTOR OR FACTORY BRANCH.

A. THE DECISION-MAKER(S) UNDER THE DISPUTE RESOLUTION MECHANISM SHALL EITHER BE:

1) INDEPENDENT AND NOT EMPLOYED BY, OR AFFILIATED WITH THE M, D, OR FB OR DEALERS(S) IF THERE IS NO SPECIFIC PROCESS REACHED BY PRIOR AGREEMENT BETWEEN THE PROTESTING DEALER AND THE M, D, OR FB; OR

2) AN INDIVIDUAL OR PANEL SELECTED BY A PROCESS MUTUALLY AGREED BY A DEALER AGREEABLE TO THE PROTESTING DEALER AND THE M, D, OR FB UNDER THE TERMS OF THE FRANCHISE BETWEEN THEM;

B. THERE IS A STANDARD FOR DECIDING SUCH CASES UNDER THE TERMS OF THE DISPUTE RESOLUTION PROCESS WHICH ALLOWS A PROTESTING DEALER TO INCLUDE EVIDENCE ON IMPACT UPON THE EXISTING DEALER(S) IN ADDITION TO ANY OTHER FACTORS EXPRESSLY OR IMPLICITLY CONSIDERED UNDER THE MECHANISM.

February 18, 1991

Senator Bill Morris, Chairman
Senate Committee on Transportation and Utilities
State Capitol, Room 143-N
Topeka, KS 66612

RE; SB 11--Manufactured Housing and Local Regulations

Dear Bill;

Following extended discussions between representatives of the League of Kansas Municipalities (League) and the Kansas Manufactured Housing Association (KMHA), we have arrived at a mutually acceptable compromise as to the provisions of section 12 of SB 11. While the League continues to question the need for using state statutes to restate preemptory federal law, KMHA feels strongly that this should be done. The following is proposed as an agreed-upon substitute for section 12;

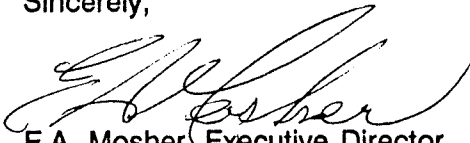
Whenever a federal manufactured home construction and safety standard established pursuant to 42 U.S.C. § 5401 et seq. is in effect, no state agency or political subdivision shall have any authority either to establish, or to continue in effect, with respect to any manufactured home covered, any standard regarding construction or safety applicable to the same aspect of performance of such manufactured home which is not identical to the federal manufactured home construction and safety standard. Nothing in this section shall prohibit the adoption or enforcement of a construction or safety standard by a state agency or political subdivision applicable to a building which is open to the public for the purpose of providing services or products to the public.

The first sentence of the above amendment is virtually identical in all respects to the federal law. While the wording appears somewhat convoluted, the League and KMHA have mutually agreed that any such provision should be as identical to the federal law as possible.

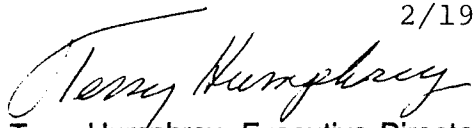
The second sentence of the above amendment deals with the League's concern that cities and counties should continue to be able to adopt and apply safety standards to a "manufactured home" which is used by the public, such as for a retail store or service station operation or for other non-residential purposes. As you know, these kinds of public buildings are now subject to state and local fire prevention codes, handicapped accessibility requirements and other standards required of buildings open to the public.

For your convenience, additional copies of this jointly signed letter is enclosed should you wish to distribute copies to the Committee.

Sincerely,


E.A. Mosher, Executive Director
League of Kansas Municipalities

ATT. 5
T&U
2/19/91


Terry Humphrey, Executive Director
Kansas Manufactured Housing Association