

Approved

2-5-92

Date

MINUTES OF THE House COMMITTEE ON Transportation

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

1:37 a/m./p.m. on January 29, 1992 in room 519-S of the Capitol.

All members were present except:

Representative Delbert Gross - Excused  
Representative Steve Lloyd - Excused  
Representative Mark Parkinson - Excused

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:

Pat Barnes - Topeka, Ks. - Carfax Inc.  
Glen Cogswell - R. L. Polk & Co.  
Representative Don Rezac  
Jack Tierce - Deputy Director of the Transportation Division, State  
Corporation Commission & State Chairman for the  
Kansas Operation Lifesaver Program.  
Pat Hubbell - Kansas Railroad Association  
Representative Henry Helgerson  
Betty McBride - Director - Division of Vehicles  
Rick Scheibe - Vehicle Administrator

**Testimony - Senate Bill 489 - Fees charged for information from  
division of vehicles records.**

Chairman Dillon introduced Pat Barnes who testified in support  
of SB 489. (Attachment 1)

Chairman Dillon called on Glen Cogswell who also testified in  
support for SB 489. (Attachment 2)

**Testimony - House Bill 2634 - Obstruction of highways by trains**

Chairman Dillon called on Representative Don Rezac who explained  
an amendment made to the bill. The amendment pertains to fines  
for obstructing highways. The fines are as follows: \$50 fine if  
the blocking is more than 10 minutes and less than 20 minutes;  
a \$150 fine if the blocking is more than 20 minutes but less than  
30 minutes; and a \$300 fine if the blocking is for more than  
30 minutes. (Attachment 3)

Chairman Dillon introduced Jack Tierce who testified in support  
of HB 2634. (Attachment 4)

Chairman Dillon called on Pat Hubbell who also expressed support  
for the bill with a proposed amendment. The amendment was agreed  
to by the Corporation Commission and the Kansas Railroad  
Association.

Representative Rezac made the motion to amend HB 2634 and pass  
out favorable. Representative Shore seconded. Motion carried.

**Drivers license stations - an update on closings**

Chairman Dillon called on Betty McBride to brief the Committee  
on the drivers license stations closings and openings. She stated  
some stations were closed in 43 Counties where work was minimal.  
She explained that by 1995 the Division will be required to comply  
with the federal National Drivers License Act which will permit  
access of a person's drivers license record anywhere in the United

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,  
room 519-S, Statehouse, at 1:37 a.m./p.m. on January 29, 1992

States. The Act requires the Division to computerize all stations. There were some counties where, due to minimal work, computerization was not cost effective. The County Treasurers Offices, however, are willing to issue renewals, identification cards, or duplicates without any compensation. The state agreed to provide these stations with the hardware and the necessary forms. Ms. McBride said that the Division is working on contracts with the counties. Out of 43 counties 38 have responded that they wish to participate. All but 2 contracts have been received of the 38. The Division will begin installing computers on March 12. Ms. McBride said that the Division has 38 permanent stations that provide the full testing and full service.

**Discussion on HB 2434 - Registration of antique vehicles, exclusions.**

Rick Scheibe, Vehicle Administrator, briefed the committee on HB 2434. He stated that the bill would restrict the use of antique vehicles for commercial use or heavy hauling. HB 2434 was amended March 5, 1991 by striking language which would prohibit antique vehicles used to transport passengers for hire or materials in excess of 500 pounds to be eligible for registration as an antique vehicle.

Committee discussion followed but no action taken on the measure.

**Testimony on House Bill 2653 - Drivers Licenses to contain statement indicating if a licensee has executed a natural death act declaration.**

Chairman Dillon called on Representative Henry Helgerson who testified in support of HB 2653. He stated that a drivers license would provide the necessary space to declare the kind of care a person wished to receive in the event a health related crisis occurred in their life. He briefed the committee on the amendment. (Attachment 5) He stated he would provide additional information at a later date on this matter.

**Action on SB 489 - Fees charged for information from division of vehicles records.**

Representative McKechnie moved to amend SB 489 (Attachment 1, Page 11.) Representative Pauls seconded. Motion carried.

Betty McBride, indicated she was informed by General Council, Department of Revenue, that if SB 489 was passed in its original form, Carfax Inc. and R. L. Polk & Co. would be treated the same. Ms. McBrides statement was in response to testimony from Pat Barnes - Carfax Inc. who had testified that an amendment was needed to SB 489 to allow the Department of Revenue to provide Carfax Inc. with vehicle title and registration information.

Meeting adjourned 2:54 P.M.



Statement Before The  
HOUSE COMMITTEE ON TRANSPORTATION AND UTILITIES

By

CARFAX, INC.

Tuesday, January 29, 1992

Re: Senate Bill No. 489

Mr. Chairman and Members of the Committee, I am Pat Barnes, local counsel for Carfax, Inc. I appear here today with Ewin Barnett, President of Carfax, Inc., in support of Senate Bill No. 489 as we believe it will remedy a situation which seems to have inadvertently excluded legitimate users of bulk licensing, titling and registration information which can be accurately obtained only from the State of Kansas. As we will show you, the inability for Carfax to obtain, compile and rely upon this information will ultimately not only hurt this company, but will leave the State of Kansas and consumers which use Carfax services in the state without a viable alternative.

Carfax was established in 1984 for the purpose of creating and providing a data base which provides vehicle tracking services to private industry, individuals and states desiring to use it. More specifically, Carfax has compiled and developed an odometer and title history verification service which is indexed by vehicle identification number and previous owner's zip code in order to identify a vehicle and certain characteristics about it and track its movement through various geographical areas from the time of its entry into the market. The data base provides those

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using it a method of checking odometer discrepancies, salvage vehicle histories (on both in-state and out-of-state vehicles), duplicate titles, indicia of title fraud, warranty time limitations, chain of ownership verification, and in some cases, depending upon the state from which the data was obtained, the previous condition or nature of the vehicle itself.

The information obtained from this data base can show problems with vehicles before they become problems for individuals. It can alert people using the service to fraudulent activities or transactions affecting a vehicle being transferred or purchased, or show them that a warranty thought to be in effect on a vehicle is no longer in effect. For example, many dealers, auctions and extended service contract companies use it to verify data on vehicles.

If the Carfax data relied upon came from a state which uses "title branding", then this information will be revealed in the course of the title history provided to the individual seeking the Carfax data. For example, if an automobile from Texas which was in a flood had that indicated on its title it would show in the Carfax data. Another example is Iowa, which has 20 different title variations, all of which would show up in Carfax data if a Kansas individual was investigating a car which at one time had an Iowa title. Many of the brands the Carfax data would turn up would be meaningful, such as salvage or rebuilt vehicles, and would reveal information which may have long since been legally removed. It is

not uncommon for old title brands to be removed in the states in which they originated through legal process.

This is an "on-line" service which can be used at the time of sale of a vehicle or when dealing at an auction. For example, Topeka Auto Auction at Forbes Field here in Topeka uses Carfax's services and has saved themselves on several occasions from vehicles with substandard histories.

Carfax is not a large company, but does provide a service of great benefit. At the present time the company is headquartered in Missouri. It has four employees and is able to efficiently operate through mass computer data processing. At the present time Carfax has established and interfaced data from ten states and, if this bill passes, Kansas. The company continues to work on adding more states every day and seeks to one day have a full national data base.

As the law presently stands and is being interpreted, obtaining Kansas records for this data base is cost prohibitive. Carfax presently houses in excess of 55,000,000 automobile titles. Before Carfax stopped receiving data from Kansas because of the cost, Carfax estimates it was receiving in the neighborhood of 60,000 vehicle records per month from Kansas alone. Under the current interpretation of the law, this would have required the company to pay \$120,000 per month for the data it needs to construct and continue the data base. They simply don't have this kind of money.

Prior to the expiration of Carfax's contract with the State of Kansas in October of last year, Carfax received data on a weekly basis by transmission of a weekly transaction magnetic tape. This data typically contained the vehicle identification number, vehicle make, year and style, title date and type, and odometer reading on each automobile and truck contained on the data tape. Carfax would return all magnetic tapes to the Department of Revenue for future use after installing the information on their system. By agreement, Carfax only used the information to compile, publish or otherwise make available statistical and historical data which did not disclose the names and addresses of individual registrants, and was not used, directly or indirectly, or even inadvertently, for the purpose of direct mail advertising, market research or sales. Carfax also provided a data base to the state for its use in tracking rolled odometers, vehicle histories and other similar information for which the data base can be used.

As you can see, the state itself received a benefit from this service which is no longer available to it. It is also our understanding that the state does not have a comparable data base for tracking vehicle histories and readily cross-referencing them with other states, which is one of the major benefits of the Carfax service. It can potentially alert the Department of Revenue and the Kansas Highway Patrol to several hundred title discrepancies each week if properly utilized.

Kansas is presently storing, for a short period of time, the data Carfax would have otherwise obtained from last October to the present. If this bill is passed so that it becomes cost effective to utilize, we anticipate the Kansas information can again be brought into the Carfax data base and the system restored for Kansas for full utilization without any gaps. If this doesn't occur, it may be lost forever as Kansas has what is known as a "flat file". For example, this means that once a car is retitled in another state, Kansas purges the files with respect to that vehicle, or at least the file doesn't follow the vehicle, nor is it otherwise updated to track the vehicle. In that respect, Carfax is unique because it picks up on the trail of the vehicle where the states leave off by cross-referencing their data base for each state. What will happen is that a loss of Kansas from the data base will create a hole. Kansas will be irreparably damaged because the information will not be available to repair that hole in the data base. It will also be hard to pick up on vehicles which pass through Kansas titles.

If one assumes that the information disclosed in a Carfax search would make a difference of \$500 or \$1,000 in the value or price of a vehicle to be provided a Kansas consumer, it can be said that use of the Carfax service could provide relief of \$50,000.00 to \$100,00.00 each week in consumer fraud or misunderstandings. This translates to a much safer and sounder retail and wholesale automobile distribution network, and assists in revealing and



addressing criminal conduct. Without this service, Kansas risks being singled out as a haven for dumping vehicles with suspicious title histories as a means of legitimizing those title histories since they would not necessarily be able to track them after they receive a clean title in Kansas.

Before closing, there is one more detail which needs to be taken care of with respect to Senate Bill No. 489. If Carfax is included in this bill it will solve our problem. We thought we were included by interpretation in the bill until it was pointed out to us by an individual at the Department of Revenue yesterday that it could be interpreted to exclude us. As such, we have attached a balloon which would show an amendment which would clearly indicate that title and registration information can be obtained by Carfax on a bulk basis to meet the needs of the data base required for the service I have outlined for you here today.

As I mentioned at the beginning of my statement, the President of the company, Ewin Barnett, is here today along with me to more specifically answer questions about how Carfax works and anything else which may come to mind regarding Senate Bill No. 489 and Carfax. We have provided examples of the Carfax reports with this testimony. We appreciate the speed with which this bill is moving as it will restore Kansas to the Carfax title history data base if Carfax is included within it. It is a very important piece of legislation in both an economic and practical sense to all who

may rely upon the data, including state officials. Thank you for  
your consideration.

## VRH Report Showing Odometer Discrepancy

Date: 02/14/91      Carfax Vehicle Records History Service

For: Carfax, Incorporated  
1306 Bus. Hwy 63 South  
Columbia, MO

Vehicle ID No: 1P3XA46K1LF744428  
Yr/Mfg: 1990 Plymouth  
Model: Acclaim  
Body: 4d Sed. (Mid-size car)  
Engine: 2.5L L4 EFI/TBI  
Misc: EPA Mileage: 24 city, 32 hwy

NOTE the following potential problem(s) regarding this records history:  
\* Odometer reading discrepancy.

No.	Date	Source	Description
1	12/06/89	Illinois	Title type issued- Title and Regis. Odometer reading- 8 Owner city- Des Plaines, IL Title Number - E6732055 Vehicle purchased- NEW Prev. title was Mfg. Cert. of Origin.
2	07/18/90	Oklahoma	Title type issued- Original Title Odometer reading- 13,216 Coded as Actual mileage Owner city- Tulsa, OK Title Number - 723690199014
5	01/28/91	Illinois	Title type issued- Title and Transfer **** Odometer reading- 8,925 Coded as Actual miles Owner city- Virden, IL Title Number - H6132696 Vehicle purchased- USED Prev. title state- OK Surrendered title no.- 723690199014

This report is based upon information supplied to Carfax by sources deemed to be reliable but no responsibility is assumed by Carfax or its agents by reason of errors, inaccuracies or omissions.

Carfax services are covered by U.S. Patent 4,989,144. Carfax is a registered trademark of Carfax, Inc. (C) Copyright 1991, Carfax Inc., Columbia, Missouri (800) 274-2277

## VRH Report Showing Prior Salvage

Date: 02/13/91 Carfax Vehicle Records History Service

For: Carfax, Incorporated  
1306 Bus. Hwy 63 South  
Columbia, MO

Vehicle ID No: 1G1BU51E0KA109231  
Yr/Mfg: 1989 Chevrolet  
Model: Caprice Classc Broughm  
Body: 4d Sed. (Large car)  
Engine: 5.0L V8 TBI/TPI/FI

NOTE the following potential problem(s) regarding this records history:  
\* Salvage or Junk-type title issued.

No.	Date	Source	Description
1	09/20/90	Iowa	Title type issued- Dealer Salvage **** Odometer reading- 25,888 Coded as Actual Mileage Owner city- Lockridge, IA Title Number - 51S015781 Prev. title state- MI Note: Branded as SALVAGE Prev. branding state- MI
2	12/10/90	Iowa	Title type issued- Dealer Regular **** Odometer reading- 25,888 Coded as Actual Mileage Owner city- Lockridge, IA Title Number - 51W050406 Prev. IA title no.- 51S015781 Note: Coded as COMPONENT PARTS REVIEW. Prev. branding state- MI
3	01/22/91	Illinois	Title type issued- Title and Transfer Odometer reading- 25,888 Coded as Actual miles Owner city- Stronghurst, IL Title Number - G6065466 Vehicle purchased- USED Prev. title state- IA Surrendered title no.- 51W050406

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## VRH Report Showing Prior Salvage

Date: 02/14/91 Carfax Vehicle Records History Service

For: Carfax, Incorporated  
1306 Bus. Hwy 63 South  
Columbia, MO

Vehicle ID No: JG1MS2166KK714452  
Yr/Mfg: 1989 Chevrolet  
Model: Geo Sprint Metro  
Body: 2d H/B (Subcompact car)  
Engine: 1.0L L3 FI

NOTE the following potential problem(s) regarding this records history:  
\* Salvage or Junk-type title issued.

No.	Date	Source	Description	
1	03/24/89	Oklahoma	Title type issued- Original Title Odometer reading- 49 Owner city- Bristow, OK Title Number - 560589083005	
2	03/13/90	Oklahoma	Title type issued- Salvage Odometer reading- 37,297 Coded as Actual mileage Owner city- Tulsa, OK Title Number - 560589083005	****
3	01/07/91	Missouri	Title type issued- Regular Odometer reading- 37,297 Mileage sworn/affirmed Owner city- Joplin, MO Purchase status- Used outstate Title Number - LC224236	
4	02/01/91	Kansas	Title type issued- Original Odometer reading- 37,339 Owner city- Fort Scott, KS Title Number - C597256	

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SENATE BILL No. 489

by Committee on Transportation

1-15

AN ACT relating to records of the division of vehicles; concerning fees charged for information from such records; amending K.S.A. 1991 Supp. 74-2012 and repealing the existing section.

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

Section 1. K.S.A. 1991 Supp. 74-2012 is hereby amended to read as follows: 74-2012. (a) All records of the division of vehicles relating to the physical or mental condition of any person or to expungement shall be confidential. Records of the division relating to diversion agreements for the purposes of K.S.A. 8-1567, 12-4415 and 22-2908, and amendments thereto, shall be confidential and shall be disclosed by direct computer access only to: (1) A city, county or district attorney, for the purpose of determining a person's eligibility for diversion; (2) a municipal or district court, for the purpose of using the record in connection with any matter before the court; (3) a law enforcement agency, for the purpose of supplying the record to a person authorized to obtain it under (1) or (2); or (4) an employer when a person is required to retain a commercial driver's license due to the nature of such person's employment.

(b) Other records of the division of vehicles shall be subject to the provisions of the open records act except as otherwise provided by this section.

(c) Lists of persons names and addresses contained in or derived from records of the division of vehicles shall not be sold, given or received for the purposes prohibited by K.S.A. 21-5914, and amendments thereto, except that:

(1) The director of vehicles may provide to a requesting party, and a requesting party may receive, such a list and accompanying information from public records of the division upon written certification that the requesting party shall use the list solely for the purpose of: (A) assisting manufacturers of motor vehicles in compiling statistical reports or in notifying owners of vehicles believed to: (i) have safety-related defects, that fail to comply with emission standards or that have any defect to be remedied at the expense of the manufacturer; or (B) assisting an insurer authorized to do business in this state, or the insurer's authorized agent, in processing an ap-

plication for, or renewal or cancellation of, a motor vehicle liability insurance policy.

(2) Any law enforcement agency of this state which has access to public records of the division may furnish to a requesting party, and a requesting party may receive, such a list and accompanying information from such records upon written certification that the requesting party shall use the list solely for the purpose of assisting an insurer authorized to do business in this state, or the insurer's authorized agent, in processing an application for, or renewal or cancellation of, a motor vehicle liability insurance policy.

(c) If a law enforcement agency of this state furnishes information to a requesting party pursuant to subsection (b), the law enforcement agency shall charge the fee prescribed by the secretary of revenue and approved by the director of accounts and reports pursuant to subsection (c)(5) of K.S.A. 45-219, and amendments thereto, for any copies furnished and may charge an additional fee to be retained by the law enforcement agency to cover its cost of providing such copies. The fee prescribed pursuant to subsection (c)(5) of K.S.A. 45-219, and amendments thereto, shall be paid monthly to the secretary of revenue.

(d) The secretary of revenue, the secretary's agents or employees, the director of vehicles or the director's agents or employees shall not be liable for damages caused by any negligent or wrongful act or omission of a law enforcement agency in furnishing any information obtained from records of the division of vehicles.

(e) A fee in an amount fixed by the secretary of revenue and approved by the director of accounts and reports pursuant to subsection (c)(5) of K.S.A. 45-219, and amendments thereto, of not less than \$2 for each request for information in the public records of the division concerning any vehicle or licensed driver shall be charged by the division, except that the director may charge a lesser fee pursuant to a contract between the secretary of revenue and any person to whom the director is authorized to furnish information under subsection (b), and such fee shall not be less than the amount of the estimated cost of production or reproduction of any information requested. Of the amount charged for each such fee except for the fees charged pursuant to a contract for title and registration records on vehicles authorized by this subsection, \$1 shall be credited to the highway patrol training center fund for each fee charged.

(f) The secretary of revenue may adopt such rules and regulations as are necessary to implement the provisions of this section.

Sec. 2. K.S.A. 1991 Supp. 74-2012 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

;or(C) providing information for compiling, distributing or verifying data on the odometer readings, mileage, condition and title history of vehicles.

SENATE BILL NO. 489

TESTIMONY OF GLENN D. COGSWELL ON BEHALF OF

R. L. POLK & CO.

BEFORE THE HOUSE TRANSPORTATION COMMITTEE

JANUARY 28<sup>9</sup>, 1992

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Mr. Chairman and members of the Committee:

My name is Glenn Cogswell and I appear on behalf of R. L. Polk & Co. We thank you for the opportunity to appear before you in support of Senate Bill 489. We particularly thank the Committee too, for its expeditious setting of this bill for hearing and early action.

Most of you are familiar in some degree with R. L. Polk & Co., who is perhaps most generally known in connection with the publication of City Directories throughout the United States and Canada. A major division of the company collects all kind of data concerning vehicle production, sales and distribution and tailors the information into reports meeting client's specifications and also prepares a National Vehicle Population Profile which incorporates the information coded into the Vehicle Identification Number (VIN) on each car and truck. They have collected and provided statistical information to motor vehicle manufacturers since 1922 and safety recall files since 1968. They are under contract with 24 manufacturers of motor vehicles. SB 345 was passed in the 1991 session. As introduced by the Senate Committee on Transportation and Utilities, sponsored by the Department of Revenue, passed by the Senate and passed out of the House Committee on Transportation, it was a rather lengthy bill containing a number

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of changes, some technical, in the Kansas Uniform Commercial Drivers License Act. A floor amendment in the House made a number of changes in the bill and the one which is the basis of SB 489 was the amendment in subsection (e) K.S.A. 1990 Supp. 74-2012. The purpose of this amendment was to fund the Highway Patrol Training Center in Salina.

For a number of years Polk has purchased the tapes of all title and registration records, provided monthly under a contract authorized by K.S.A. 74-2012. Prior to the effective date of SB 345 the contract provided for payment of \$15 per thousand items which amounted to between \$40,000 and \$50,000 annually. The costs of reproduction of the records by the state is nominal. As I understand it, it is a keypunch operation.

Unfortunately, the language of the floor amendment went further than anyone intended. The sponsors of the amendment, as it pertains to K.S.A. 74-2012, assert that they intended the amendment to apply only to drivers license records—not to title and registrations. The fiscal impact that was furnished clearly indicates this to be the case. The result of the amendment, however, by the language used, while leaving in the prior language that the Director may charge a lessor fee pursuant to a contract between the Secretary of Revenue and any person to whom the Director is authorized to furnish information under subsection (b) also seemed to provide that in any event the fee could be not less than \$2 for each request. With this interpretation, the cost of



obtaining copies of records by R. L. Polk for statistics and recall to be furnished to the automobile manufacturers increased from approximately \$50,000 annually to \$6,000,000, an increase of about 1333%. Such cost is, of course, prohibitive and therefore no records have been purchased for statistics or recall since the law went into effect on July 1, 1991. As a result, the state loses approximately \$50,000 annual revenue from R. L. Polk alone. We understand there are several contract purchases of records in addition to Polk.

Since records available to manufacturers of motor vehicles for safety recall are obsolete a public safety problem exists as the result of the 1991 amendment for which correction is urgently needed.

We urge your continued attention to the expeditious passage of SB 489.

HOUSE BILL No. 2634

By Committee on Appropriations

4-9

8 AN ACT relating to railroads; concerning the obstructing of highways;  
9 penalties; amending K.S.A. ~~66-273~~ and 66-274 and repealing the  
10 existing ~~sections~~ section

11  
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 66-273 is hereby amended to read as follows:  
14 66-273. Each and every railroad company or any corporation leasing  
15 or otherwise operating a railroad in Kansas is hereby prohibited from  
16 allowing its trains, engines or cars to stand upon any highway or  
17 public road within one half mile of any incorporated or unin-  
18 corporated city or town, station or flag station, or upon any  
19 crossing or street, to exceed ten in excess of 10 minutes at any  
20 one time without leaving an opening in the traveled portion of the  
21 highway, public road, street or crossing of at least thirty 100 feet  
22 in width.

23 Sec. 2. K.S.A. 66-274 is hereby amended to read as follows: 66-  
24 274. Any railroad company or corporation operating a line of railroad  
25 in Kansas failing or neglecting to comply with the preceding section  
26 K.S.A. 66-273, and amendments thereto, shall be guilty of a mis-  
27 demeanor, and upon conviction shall be punished by a fine of  
28 not less than five dollars (\$5) nor more than twenty-five dollars  
29 (\$25). *Provided*, That no member of a railroad train, yard, or  
30 engine crew shall be held personally responsible or found  
31 guilty of violating any state laws or any municipal ordinances  
32 regulating or intended to regulate the occupying or blocking  
33 of any street, road or highway crossing-at-grade by trains or  
34 passenger or freight cars upon reasonable proof that his action  
35 was necessary due to circumstances beyond his control, or to  
36 comply with the order or instructions, either written or verbal,  
37 of his employer or his officers or supervisory officials. *Provided*  
38 further, That nothing in this section shall relieve the employer  
39 or railroad from any responsibility placed upon said employer  
40 or railroad by any such state law or any municipal ordinance  
41 subject to the penalties provided for in K.S.A. 66-138, and amend-  
42 ments thereto.

43 [Sec. 3.] K.S.A. 66-273 and 66-274 [are] hereby repealed. sec. 2.  
is

section 1.

Section 1. K.S.A. 66-274 is hereby amended to read as follows: 66-274. Any railroad company or corporation operating a line of railroad in Kansas failing or neglecting to comply with the preceding section K.S.A. 66-273, and amendments thereto, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five dollars (\$5) nor more than twenty-five dollars (\$25). *Provided*, That as follows: Fifty dollars if the blocking is for more than 10 minutes but less than 20 minutes; \$150 if the blocking is for more than 20 minutes but less than 30 minutes; \$300 if the blocking is for more than 30 minutes. No member of a railroad train, yard, or engine crew shall be held personally responsible or found guilty of violating any state laws or any municipal ordinances regulating or intended to regulate the occupying or blocking of any street, road or highway crossing-at-grade by trains or passenger or freight cars upon reasonable proof that his such person's action was necessary due to circumstances beyond his such person's control, or to comply with the order or instructions, either written or verbal, of his the person's employer or his officers or supervisory officials. *Provided further*, That. Nothing in this section shall relieve the employer or railroad from any responsibility placed upon said such employer or railroad by any such state law or any municipal ordinance.

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ATTACHMENT 3

STATEMENT OF THE  
STATE CORPORATION COMMISSION

Presented to the House Transportation Committee  
January 29, 1992

House Bill No. 2634, amended

Mr. Chairman and Members of the Committee:

My name is Jack Tierce. I am the Deputy Director of the Transportation Division, State Corporation Commission and the State Chairman for the Kansas Operation Lifesaver Program. The Corporation Commission supports passage of HB 2634 and would encourage adoption of an amendment to establish a graduated fine schedule.

REGULATORY AUTHORITY CONCERNING  
PUBLIC SAFETY

The State Corporation Commission exercises regulatory authority over railroads in Kansas. (Reference K.S.A. 66-1,216) Kansas Statute Annotated 66-1,223 mandates: "From time to time, the commission shall carefully examine and inspect the condition of each common carrier, its equipment, the manner of its conduct and its management with reference to the public safety and convenience." Kansas has approximately 6,507 miles of track and 8,761 public grade crossings, which ranks Kansas third in the nation for total miles of track with Texas and Illinois ranked 1 and 2, respectively. The commission also regulates motor carriers, utility companies, and companies producing oil.

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*ATTACHMENT 4*

*4-1*

## SAFETY AND CONVENIENCE

Approximately 40% of all grade crossing accidents occur at crossings with active devices. Public safety is compromised by people who try to beat trains to the crossings or go around lowered gates in fear that they will be blocked by a train. Trains blocking crossings causes them to be late for work, late company deliveries and school children being late for school or going home. Public safety and convenience is compromised by trains blocking crossings in excess of ten minutes. This change is patterned after the penalties in Illinois.

## CONCLUSION

The commission's desire is to reduce the number of times that trains block public grade crossings in excess of ten minutes. This legislation would eliminate the present archaic fine level. The commission would request that the committee respond favorably.

Proposed Amendment to House Bill No. 2653

Be amended:

On page 2, by striking all of lines 22 and 23; in line 24, by striking all before the period and inserting in lieu thereof the following: "an advance directive pursuant to K.S.A. 1991 Supp. 58-625 et seq., and any amendments thereto, or K.S.A. 65-28,101 et seq., and amendments thereto"

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ATTACHMENT-5 5-1