

Approved 2-17-92
Date

MINUTES OF THE House COMMITTEE ON Transportation

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

1:39 a.m./p.m. on February 4, 1992 in room 519-S of the Capitol.

All members were present except:

Representative Mark Parkinson - Excused

Committee staff present:

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

Conferees appearing before the committee:

Representative Tom Thompson
Paul Shelby - Assistant Judicial Administrator
Paulanna Cook - Mission, Kansas
Tom Whitaker - Governmental Relations Director, Kansas Motor
Carriers Association
Rick Scheibe - Vehicle Services Administrator - Division of Vehicles

Bill Requests - Abandoned and disabled vehicles

Mike Johnston, Secretary, Department of Transportation, recommended the introduction of legislation which would allow public agencies to dispose of abandoned or disabled vehicles. (Attachment 1)

A motion was made by Representative Gross, seconded by Representative Correll that this request be introduced as a Committee bill. Motion carried.

Discussion - House Bill 2799 - Display of vehicles at a temporary location.

Chairman Dillon stated there was miscommunication on House Bill 2799 and that the Revisor of Statutes Office was given the corrected version of the bill. Chairman Dillon pointed out that rather than amend HB 2799 with the corrected version, the Committee would introduce a new bill.

Representative Gross made the motion to have the new version of House Bill 2799 introduced. Representative Correll seconded it. Motion carried.

Representative McClure made the motion to report adversely on House Bill 2799. Representative Lloyd seconded. Motion carried.

Chairman Dillon entertained a motion to approve the January 22nd, 23rd, and 28th minutes. Representative McClure made the motion to approve minutes. Representative Bryant seconded. Motion carried.

Testimony - House Bill 2703 - Certain division of vehicles' records confidential.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,
room 519-S Statehouse, at 1:39 a/m./p.m. on February 4, 1992

Chairman Dillon called on Representative Thompson who testified in support of House Bill 2703. (Attachment 2)

Chairman Dillon called on Paul Shelby who pointed out that House Bill 2703 overlooks another statute which relates to the preparation of jury lists. This statute prescribes access for drivers list for District Courts when preparing jury lists. The same statute also permits District Courts in each County to use voter registration records of the County or enumeration or census records for the purpose of preparing a list of persons to be qualified as jurors. His amendment to House Bill 2703 will point out that the District Courts could continue to receive these lists. (Attachment 3)

Chairman Dillon called on Paulanna Cook who testified in favor of House Bill 2703. (Attachment 4)

Chairman Dillon called on Tom Whitaker who expressed his concern that House Bill 2703 as introduced would prohibit the Division of Vehicles from releasing the name and address of a vehicle owner to a tow operator for the purpose of satisfying a towing and recovery lien. (Attachment 5)

Testimony - House Bill 2788 - An act concerning motor vehicle dealers; imposing criminal sanctions on those selling motor vehicles without a license.

Chairman Dillon called on Rick Scheibe who testified in support of House Bill 2788. (Attachment 6)

Jacque Oakes submitted written testimony on House Bill 2788. (Attachment 7)

Concludes hearings on House Bill 2703 and House Bill 2788.

House Bill 2628 - Meeting Date

Representative Gross announced that the Sub-Committee would not meet Wednesday, February 5, 1992 on House Bill 2628. He said that he met with representatives of the Kansas Oil Marketers Association (KOMA) and they had a proposal pertaining to the marketing of petroleum products they would present to the committee to consider. However, they need to get it through their membership first. The meeting will be held Wednesday, February 12, 1992 at 7:30 A.M. The Room number will be posted on bulletin board.

Meeting adjourned at 2:06 P.M.

PROPOSED REQUEST FOR LEGISLATION

ABANDONED AND DISABLED VEHICLES

1. BILL SUMMARY

The statutes that control the Department of Transportation's ability to remove abandoned motor vehicles from a highway and dispose of them are inconsistent. K.S.A. 8-1101 (1) gives the Department the discretion to remove motor vehicles from a highway to place or store them in a safe and convenient place. K.S.A. Supp 1990 8-1102(2) limits the Department's ability to delegate the duties that are necessary to dispose of the vehicle. As a result, the Department of Transportation must provide wrecker or towing services, and must use State property and resources for the storage and sale of abandoned and disabled vehicles rather than for highway related use. In addition, the vague language of K.S.A. 8-1101(2) requires the Department to contact the local register of deeds for any lienholder of record, but the register of deeds only keeps records on mechanics liens.

KDOT recommends repealing K.S.A. 8-1101 and 8-1102. K.S.A. 1990 Supp. 8-1103, which allows law enforcement officers to dispose of abandoned and disabled vehicles by wrecking or towing services, should remain, and be amended to include public agencies.

2. FISCAL IMPACT

KDOT must currently tow, store, and sell several hundred abandoned and disabled vehicles each year. Based on private sector charges, the cost of these services would be approximately \$172,250 a year (to dispose of 223 vehicles at an estimated \$750 apiece). This is offset slightly by approximately \$13,000 in sale proceeds and money recovered from owners, for a net cost of \$160,000 annually. If KDOT could use commercial firms to provide these services, there would be no cost to the State.

3. POLICY IMPLICATIONS/BACKGROUND

The purpose of this proposal is to simplify the statute and allow KDOT to use the current law in K.S.A. 8-1103 et. seq. to provide for the removal and disposal of vehicles that are abandoned on the State's highways. KDOT does not have the proper equipment to provide towing or wrecking service, must take personnel from other assigned duties to provide towing or wrecking service, and does not have proper facilities in which to store the impounded vehicles. In addition, when impounded vehicles cannot be stored out of sight of the public, it creates a negative, "salvage yard" image for the Department.

4. IMPACT ON OTHER STATE AGENCIES

The only impact on other agencies would be procedural. If the Department were to make use of private towing and wrecking services in certain areas of the State, the Highway Patrol and other law enforcement agencies would be notified to contact those firms instead of the Department when they identify abandoned vehicles.

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TESTIMONY
Transportation Committee
Proponent
HB 2703

Thank you very much for allowing me to testify before this Committee. This bill addresses a very uncomfortable and potentially dangerous situation that confronted a woman who lives in my area. Her son and daughter-in-law called me, quite concerned about the welfare of their mother and other individuals similarly affected.

The situation basically deals with individuals being able to get someone's name and address by getting their license plate number, contacting the Department of Revenue and paying \$4.00.

Certainly there are many reasons for an individual to obtain such information about an individual that they do not already know. The primary reason is that they want something from the individual in question. Whether it is in the best interest of the unknown individual or not, the inquiring individual is able to get the requested information.

Someone may just want to buy the individual's car. They may want a lot of other things too. The other possibilities are what concern me. Living in the urban core of Kansas City where people are very concerned about protection from unscrupulous individuals, the current policy of providing names and addresses leaves people unprotected. They have no way of prohibiting this information from getting out.

HB 2703 closes the door to unwanted inquiries into an individual's private household. HB 2703 does allow for those agencies that need this information to continue getting it as they have been. This includes law enforcement agencies, city, county, and district attorneys, employer inquiries about commercial drivers licenses, and others.

The intention of this bill is simple and straightforward: To protect an individual's right to privacy. I hope you will give this bill consideration and pass it out of committee favorably for passage.

Sincerely,

Tom Thompson

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House Bill No. 2703
House Transportation Committee
February 4, 1992

Testimony of Paul Shelby
Assistant Judicial Administrator
Office of Judicial Administration

Mr. Chairman:

I thank you for the opportunity to discuss with you House Bill No. 2703 which relates to records of the division of vehicles.

This proposal would make the name and address of any person contained in or derived from records of the division of vehicles confidential and only to be disclosed as provided in subsection (b). These provisions are intended to preserve the confidential nature of the division of vehicles records.

However, this statute now overlooks another provision of the statutes, K.S.A. 43-162, which relates to the preparation of jury lists. This statute prescribes access to drivers lists for district courts when preparing jury lists. This law also permits district courts in each county to use voter registration records of the county or enumeration or census records for the purpose of preparing a list of persons to be qualified as jurors.

Each year approximately 60-65 counties order lists of licensed drivers from the Secretary of Revenue and pay production costs for the lists.

This amendment offers you an opportunity to mesh these two statutes in a meaningful way. The uses outlined in this statute are productive uses, and ones for which confidentiality should be preserved. At the same time the use of drivers lists for preparation of jury lists materially improves the jury lists over simply using voter registration lists. The census enumeration lists refer to the old agricultural census which although it is still an option to counties has not been exercised for years.

I offer an amendment to HB 2703 that would point out that our district courts continue to receive these lists of licensed drivers residing in the county for the preparation of jury lists so as to prevent any misunderstanding about district court access to this information.

I urge the committee to approve our amendment.

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HOUSE BILL No. 2703

By Representative Thompson

1-15

AN ACT relating to records of the division of vehicles; 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. *The name and address of any person contained in or derived from records of the division of vehicles shall be confidential and shall be disclosed only as provided in subsection (b)*

or in accordance with the provisions of K.S.A. 43-155, et seq.

All 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.

(b) 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. 21-3914, 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, (ii) fail to comply with emission standards
- (i) have any defect to be remedied at the expense of the man-

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1 manufacturer; or (B) assisting an insurer authorized to do business in
2 this state, or the insurer's authorized agent, in processing an ap-
3 plication for, or renewal or cancellation of, a motor vehicle liability
4 insurance policy.

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

13 (c) If a law enforcement agency of this state furnishes information
14 to a requesting party pursuant to subsection (b)(2), the law enforce-
15 ment agency shall charge the fee prescribed by the secretary of
16 revenue and approved by the director of accounts and reports pur-
17 suant to subsection (c)(5) of K.S.A. 45-219, and amendments thereto,
18 for any copies furnished and may charge an additional fee to be
19 retained by the law enforcement agency to cover its cost of providing
20 such copies. The fee prescribed pursuant to subsection (c)(5) of
21 K.S.A. 45-219, and amendments thereto, shall be paid monthly to
22 the secretary of revenue.

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

28 (e) A fee in an amount fixed by the secretary of revenue and
29 approved by the director of accounts and reports pursuant to sub-
30 section (c)(5) of K.S.A. 45-219, and amendments thereto, of not less
31 than \$2 for each request for information in the public records of the
32 division concerning any vehicle or licensed driver shall be charged
33 by the division, except that the director may charge a lesser fee
34 pursuant to a contract between the secretary of revenue and any
35 person to whom the director is authorized to furnish information
36 under subsection (b), and such fee shall not be less than the minimum
37 fee established under this subsection and shall not be less than the
38 cost of production or reproduction of any information requested. Of
39 the amount charged for each such fee, \$1 shall be credited to the
40 highway patrol training center fund.

41 (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.

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

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February 4, 1992

Transportation Committee
HB 2703

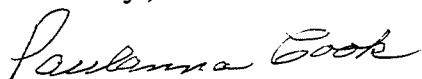
Proponent

One early afternoon in May, 1991, I was driving east on Seventy-ninth Street headed toward my Mission apartment.

Soon after arriving at my apartment, I received a phone call from a man inquiring about my car. He had a full description of the car and asked if I would be interested in selling it. I then asked him where he saw my car and how he got my phone number. He answered by saying that he had followed me on Seventy-ninth Street and had looked at my license plate numbers. He then said that he went to the license bureau, showed them his identification, paid a small fee, and in return he received my name.

For the rest of the afternoon I was very uneasy and somewhat frightened. I did not know this man and I wondered if perhaps he would come by my apartment and check out the car again. As it turned out, I never heard from the man again, but I was still uneasy and frightened knowing that anybody could copy down a license plate number and gain the identity of the owner of the car. It's feasible that a person with criminal intent could have access to this information.

Sincerely,



Paulanna Cook
6905 W. 51 Pl.
Mission, Kansas 66202

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STATEMENT

by the

KANSAS MOTOR CARRIERS ASSOCIATION

Regarding House Bill No. 2703 concerning
the confidentiality of records of the
Division of Vehicles.

Presented to the House Transportation Committee,
Representative Herman Dillon, Chairman; Statehouse,
Topeka, Kansas, February 4, 1992.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am Tom Whitaker, Governmental Relations Director of the Kansas Motor Carriers Association with offices in Topeka. I appear here today representing our 1,550 member-firms and specifically, the Towing and Recovery Division of our Association. We wish to express our concerns with the proposed amendment in HB 2703. The proposed amendment would prohibit the Division of Vehicles of the Department of Revenue from releasing the name and address of a vehicle owner to a tow operator for the purpose of satisfying a towing and recovery possessory lien.

Tow operators are required by the Towing and Recovery Lien Law to request a vehicle identification number verification from the Division of Vehicles when a vehicle is being held subject to satisfaction of a possessory lien. The law further requires the tow operator to notify by certified mail, the owner of any such vehicle and/or any lienholders of record, that the vehicle will be sold at public auction to satisfy the possessory lien unless payment is received.

We understand the concerns of the author of this legislation. However, we would hope that the bill could be amended to allow those who must have access to the Division of Vehicles records, the ability to obtain such information.

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Senate Bill 461 is an identical bill. We have presented this same problem to the Senate Transportation and Utilities Committee and we understand that language is being prepared to address this problem.

We would ask this Committee to amend House Bill 2703 accordingly. We thank you for the opportunity to call this matter to your attention and will be pleased to respond to any questions.

#

STATE OF KANSAS

Betty McBride, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66626-0001



(913) 296-3601
FAX (913) 296-3852

Department of Revenue
Division of Vehicles

TO: HOUSE TRANSPORTATION COMMITTEE

FROM: Rick Scheibe, Vehicle Services Administrator
Kansas Division of Vehicles

DATE: February 4, 1992

SUBJECT: **House Bill 2788**

Mr. Chairman, Committee members,

My name is Rick Scheibe, Vehicle Services Administrator for the Kansas Division of Vehicles.

House Bill 2788 is a bill introduced by the Division to curtail a very serious problem existing in virtually every community in Kansas, and affecting not only Kansas vehicle dealers but also consumers. This is the practice of selling vehicles without a dealers license, known as curbstoning. *Webster's Ninth Collegiate Dictionary* defines a curbstoner as someone who is "Operating on the street without maintaining an office."

By disguising their activity as an occasional or isolated sale, often jumping title, curbstoners make a career out of buying junk cars for a few hundred dollars and selling them for many times more than they're worth. Unfortunately, when a curbstoner "jumps title" they not only avoid registering the vehicle in their name and are therefore omitted from the chain of ownership, but they also avoid paying sales tax, personal property tax and registration fees. Because a curbstoner's vehicles are sold "as is", without warranty, the curbstoner assumes no liability for the condition of the vehicle. More often than not, people who buy from a curbstoner can barely afford the asking price, much less afford repairs after the vehicle breaks down.

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This bill authorizes criminal penalties for individuals convicted as operating as unlicensed vehicle dealers. The effective enforcement of this law will also foster a closer working relationship between the Division of Vehicles and local law enforcement .

The Department of Revenue supports HB 2788 and respectfully requests favorable passage from this committee.



KANSAS INDEPENDENT AUTOMOBILE DEALERS ASSOCIATION



Citizens Bank & Trust Building • 6th & Humboldt • Manhattan, Kansas 66502
Phone: 913-776-0044 FAX: 913-776-7085

February 4, 1992

TO: HOUSE COMMITTEE ON TRANSPORTATION

SUBJECT: HB 2788--AN ACT CONCERNING MOTOR VEHICLES'
DEALERS; IMPOSING CRIMINAL SANCTIONS
ON THOSE SELLING MOTOR VEHICLES WITH-
OUT A LICENSE.

FROM: KANSAS INDEPENDENT AUTOMOBILE DEALERS ASSOCIATION

Mr. Chairman and Members of the Committee:

I am Jacque Oakes representing Kansas Independent Auto-
mobile Dealers Association, an organization of over
200 used car dealers.

We are submitting written testimony in favor of HB 2788.

The one act that car dealers resent the most is the sale
of more than five cars by an individual outside of the
law while car dealers must have a license and operate
within the law. Curbstoning, the term used for this
type of law breaking, is the number one complaint by all
of our members.

Licensed car dealers must keep exact records of all titles,
and they must collect sales tax on all vehicles sold.
Curbstoners can sell many cars, skipping titles, and
never collecting Kansas sales tax.

We believe that it is time to stop this activity by giving
the Division of Vehicles and their investigators the
authority to enforce the law.

Thank you for your positive consideration of HB 2788.

*House Transportation
2-4-92*

Individually we struggle to be heard—Collectively we cannot be ignored.

ATTACHMENT 7

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