

Approved 3-17-92  
Date

MINUTES OF THE House COMMITTEE ON Transportation

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

1:35 a.m./p.m. on February 25, 1992 in room 519-S of the Capitol.

All members were present except:

Representative Gross - Excused  
Representative McKechnie - Excused

Committee staff present:

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

Conferees appearing before the committee:

Representative Joan Hamilton  
Marlin Nickerson - Topeka, Ks  
Brenda Dorr - Topeka, Ks  
Tom Whitaker - Governmental Relations Director of the Kansas Motor Carriers Association  
Jack Tierce - Deputy Director - Kansas Corporation Commission  
Representative Sheila Hochhauser  
Vicki Tyler - Handicapped People Obligated to Physical Equality (HOPE)  
Mary Jane Stattelmann - Assistant Attorney General  
Sharon Huffman - Commission on Disability Concerns - Kansas Department of Human Resources.

**Hearing - House Bill 2982 - Exempting certain private carriers from regulation.**

Chairman Dillon called on Representative Joan Hamilton, sponsor of the Bill, who briefed the Committee on the Bill. She introduced a constituent, Brenda Dorr, who testified in support of the bill. Ms. Dorr stated that she was stopped by the Highway Patrol and given a ticket on her way from an arts and crafts show. She said that the Patrol asked what she was hauling. She replied it was goods she had made for arts and crafts shows. Ms. Dorr indicated that the Patrol told her that when transporting goods for sale beyond 25 miles of her place of domicile she had to have a permit from the KCC. She believes that these activities should be exempt from KCC Authority.

Chairman Dillon called on Marlin Nickerson who testified in support of House Bill 2982. He indicated that he sells his wares at arts and crafts shows in order to help pay for his property taxes. He noted that his profits were low and that a fine for not having a KCC permit would force him out of business. (Attachment 1)

Chairman Dillon called on Tom Whitaker who expressed his concerns with House Bill 2982. Mr. Whitaker said that the motor carrier industry favors an interim study on this and other enforcement related issues. (Attachment 2)

Chairman Dillon called on Jack Tierce who answered questions from the Committee regarding private carriers who carry goods for sale more than 25 miles.

Concludes Hearing on House Bill 2982.

**Hearing - House Bill 3015 - Wheelchairs excluded from definition of motor vehicles and persons operating defined as pedestrians.**

Chairman Dillon called on Representative Sheila Hochhauser who

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,

room 519-S, Statehouse, at 1:35 a/m/p.m. on February 25, 1992.

sponsored the bill. She testified in support of the changes in the law which center on the definitions of "motor vehicle" and "pedestrians." (Attachment 3)

Chairman Dillon called on Vicki Tyler who testified in support of the bill. Mrs. Tyler noted that the existing definition of pedestrian excludes a person who uses a wheelchair. (Attachment 4)

Chairman Dillon called on Mary Jane Stattelmann who testified in support of House Bill 3015. Ms. Stattelmann explained that the Attorney General's office received a letter from Representative Hochhauser asking whether a motorized wheelchair fell within the definition of a motor vehicle. She noted the disadvantages of defining a motorized wheelchair as a motor vehicle. (Attachment 5)

The next conferee was Sharon Huffman. Ms. Huffman expressed support for the bill. She said that the Commission of Disability Concerns had received numerous phone calls from persons concerned about a motorized wheelchair being considered as a motor vehicle. She said that some of the concerns were from persons who were required to obtain a special permit to hunt from a motor vehicle in addition to their regular hunting license. She also pointed out that motorized wheelchairs are considered motor vehicles and persons operating motorized wheelchairs could be legally barred from entering a place of business. (Attachment 6)

Concludes Hearing on House Bill 3015.

**Approval of Minutes**

Chairman Dillon entertained a motion to approve February 13th, 17th, 19th and 24th minutes. Representative Garner made the motion to approve minutes. Representative Correll seconded. Motion carried.

**Final action on House Bill 2823 - Certificates of title for repossessed vehicles.**

House Bill 2823 provides that when a vehicle is registered in another state and that vehicle is repossessed in another state, the owner is not entitled to obtain a valid Kansas Title registration.

Representative Shallenburger made the motion to adopt a proposed amendment suggested by the Kansas Bankers Association (KBA). (Attachment 7) Representative Shore seconded. Motion carried.

The amendment suggested by the KBA clarifies that Kansas' financial institutions could still obtain a Kansas repossession title on any vehicle they had originally financed.

Representative Reinhardt made the motion to pass House Bill 2823 as amended. Representative Shallenburger seconded. Motion carried.

**Final Action on House Bill 2865 - Abandoned and disabled vehicles.**

Representative Shore moved to table House Bill 2865. Representative Bryant seconded. Motion carried.

Meeting adjourned at 2:28 P.M.



GUEST LIST

COMMITTEE: Transportation (House) Date: 2-25-92

Name (Please Print)	COMPANY ORGANIZATION	ADDRESS
ME NICKERSON	-	10136 SW WYANAMAKER
Melvina Nickerson		10136 Wyanamaker
Linda Schlesinger		5925 SW 85th <sup>Wland</sup>
FRED DREHER		5432 S.E. 45 <sup>th</sup>
Bennie Dreher		5432 S.E. 45 <sup>th</sup>
DON EARLLE	KCC	Topeka
JACK TIERCE	KCC	Topeka
Alan Vance	SPS-Rehab. Serv	Topeka
Mary Ann Stittman	AG	"
Marsha Gabeharr	KCC	"
Sharon Huffman	KCC	"
Tom Whitaker	Ks Motor Carriers Assn	"
Kirkless	KBA	"
Dodd Embrey	UTU	OSAWATOMIE
Frank Bentman	Crofton	Topeka
Chuck Stan	KBA	"



My wife and I are senior citizens who sell our wares at nearby arts & crafts sales in order to pay our property taxes, which have doubled in the last few years. I make wooden items such as shelves, breadboxes, etc. and my wife sews toaster covers, aprons, and things for children. Our profit level is so low that if we encountered a fine for not having a KCC license, we would be out of business quick. All the extra paperwork of getting a license would also put us out of work. We are trying very hard to hang on to our home which we built ourselves 30 years ago at a cost of less than \$10,000, but which is now appraised at almost \$70,000. We hope to live out our lives here and if we have give our craft shows at this time we may see our home eaten up by taxes and who knows we might be forced to join the line of the homeless with so many other older Americans.

I also know of other senior people who do craft shows, simply to keep busy and have something to fill their days, selling their projects at little more than cost so they can make more without digging into their limited funds to buy more materials.

It is a well known fact that small towns in Kansas are dying out. Many of them sponsor yearly arts & crafts shows to bring people into thier community and also a spark to their own people. If exhibitions are afraid to travel to these shows there would be no show.

Marlin Nickerson  
10136 S.W. Wanamaker

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2-25-92  
ATTACHMENT 1

STATEMENT

By The

KANSAS MOTOR CARRIERS ASSOCIATION

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Concerning House Bill 2982 which would exempt certain private carrier transportation.

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Presented to the House Transportation Committee, Rep. Herman Dillon, Chairman; Statehouse, Topeka; February 25, 1992.

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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 this morning to express our concern with House Bill 2982.

We understand that the proposed legislation is intended to eliminate the necessity for light-weight vehicle owners to qualify as a private carrier with the Kansas Corporation Commission. We can appreciate the reasons why this legislation was introduced.

Application of this proposed remedy for the constituents intended to be covered, however, also exempts any number of other kinds of vehicle owners who currently hold such KCC private carrier permits.

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As we understand it, the Kansas Corporation Commission may be confronted with the necessity to change our current definition of a private carrier to coincide with the Federal Highway Administration's definition. This would eliminate an intrastate variance with federal regulations.

The federal definition is:

"Private motor carrier of property" means a person who provides transportation of property by motor vehicle, and is not a for-hire motor carrier.

Common-sense enforcement can eliminate countless problems in this area.

We believe enforcement agencies should direct their energies and resources to the major violations which go on every day in this state and not harass private citizens who are not in the transportation business.

We further respectfully request that the private carrier definition be studied to fully measure its impact and that our enforcement alignment, policies and procedures be studied to assure maximum utilization of enforcement resources in our state.

We would hope, Mr. Chairman and members of the Committee, that this bill might provide the framework for such study.

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SHEILA HOCHHAUSER  
 REPRESENTATIVE, 66TH DISTRICT  
 1636 LEAVENWORTH  
 MANHATTAN, KANSAS 66502  
 (913) 539-6177 HOME  
 (913) 296-7657 TOPEKA OFFICE



TOPEKA

HOUSE OF  
 REPRESENTATIVES

TESTIMONY ON HB 3015  
 HOUSE COMMITTEE ON TRANSPORTATION  
 FEBRUARY 25, 1992

COMMITTEE ASSIGNMENTS  
 MEMBER: APPROPRIATIONS  
 JUDICIARY  
 LEGISLATIVE EDUCATIONAL  
 PLANNING COMMITTEE  
 RULES AND JOURNAL

Mr. Chairman, Members of the Committee:

I was asked to seek the changes in the law set forth in House Bill 3015 by my constituents, Lewis and Vicki Tyler. Before agreeing to seek changes in the law defining motor vehicles and pedestrians, I asked the Attorney General for his opinion as to whether a motorized wheelchair is defined by Kansas law as a motor vehicle. I also asked whether a person in a wheelchair is a pedestrian under Kansas law.

Under current Kansas law, motorized wheelchairs are arguably motor vehicles. Carried to its illogical conclusion, this means that motorized wheelchairs would need to be registered, licensed, tagged, and insured. Moreover, a strict reading of the definition of pedestrian in Kansas law would not include a person in a wheelchair.

The Attorney General strongly encouraged me and other legislators to amend and clarify Kansas statutes to close the door to any potential illogical interpretations of current law. Such an illogical interpretation has occurred; hunters confined to motorized wheelchairs are required by the Department of Wildlife and Parks to purchase special licenses to hunt from their "motorized vehicles". HB 3015 would do away with this burden upon the disabled and preclude others from being imposed.

Wheelchairs provide individuals the freedom to move, participate, and function. A wheelchair allows a physically disabled person an opportunity to live a life of independence and self sufficiency, similiar to that of a physically able person. HB 3015 will help this State accomplish the goal of treating disabled citizens equitably and enhancing the quality of their lives. I urge you to pass it favorably.

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 ATTACHMENT 3*





H andicapped People  
O bligated to  
P hysical  
E quality

DIRECTOR:  
Tobie Tyler  
3503 Stonehenge Court.  
Manhattan, Kansas 66502  
(913) 776-7101

RE: HOUSE BILL No. 3015

CONCERNING WHEELCHAIRS AND PERSONS WHO USE WHEELCHAIRS  
IN THE DEFINITIONS OF MOTOR VEHICLES AND PEDESTRIANS

BY: LEWIS AND VICKI TYLER

My husband was a sergeant for the Police Department for twenty years before he was shot and disabled during a high speed chase involving drugs. He was Traffic Specialist for the Department; Expert Witness for the courts in traffic concerns and holds a Masters degree in Traffic Safety.

Since his retirement from the department we have moved to Manhattan, Kansas and started H.O.P.E. a group for persons with disabilities. We have also become involved with issues that concern persons with disabilities and the issue of the definitions of motor vehicles and pedestrians are a root concern for all persons with disabilities.

Under the existing definition a pedestrian is 'any person afoot'. This excludes anyone who uses a wheelchair or other type of equipment for mobility from the definition. The motor vehicle definition then states that a motor vehicle is 'every vehicle with a motor'. This then puts all persons with electric wheelchairs under the category of motor vehicles. Both definitions exclude anyone who uses a manual wheelchair. The new definitions correct these problems.

There are many reasons why the definitions need to be changed. Besides the insurance and litigation difficulties that could develop the Americans with Disabilities Act of 1990 requires that public entities change any practices or policies that discriminate against persons with disabilities, as is evident in this lapse in the definitions.

The ADA also prohibits separation of persons with disabilities

*An organization dedicated to helping handicapped persons and their families*  
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from the general population. This right to be included with the general public is inherent with the inclusion of persons who use wheelchairs in the same paragraph as all other persons when defining pedestrians, rather than just adding another, special paragraph which would have tended towards segregation.

We have discussed the proposed wordings with various people. All have found it to be easily read and, from the viewpoint of police officers, easily enforceable.

Though the new definition of motor vehicles restricts the exclusion to wheelchairs, and is exclusive of other types of equipment used for mobility, the intent is clear.

We believe that both definitions need to be read together. The definition of pedestrian includes the various types of equipment presently used by persons with disabilities and also takes into account future equipment that may be used and has the flexibility needed.

The words 'low powered' are not defined in the definition of pedestrian. This would have put restrictions on the type of equipment used and would have led to cumbersome legislature that would have been difficult to unravel or enforce.

Instead, the understanding of what 'low powered' means can be taken from the definition of a motor vehicle where wheelchairs and motorized bicycles are excluded. Obviously, when taking the two definition together, anything that has equal or less power than a motorized bicycle and is used specifically by persons with disabilities would be considered low powered equipment used by a pedestrian.

This legislature is desperately needed. It is inclusive of persons with disabilities without being restrictive or overbearing. It puts people with disabilities back on an equal and legal status with everyone else in a very fundamental way.

We want to thank Representatives Hochhauser and Reinhardt, and all the other Representatives who have sponsored this Bill for their insight and understanding.



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN  
ATTORNEY GENERAL

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Testimony on Behalf of  
Attorney General Robert T. Stephan  
Presented by  
Mary Jane Stattelmann  
Assistant Attorney General

House Transportation Committee  
Re: House Bill No. 3015  
February 25, 1992

On behalf of Attorney General Stephan, I am here to testify in favor of House Bill No. 3015.

This past summer we received a letter from Representative Hochhauser regarding whether a motorized wheelchair falls within the definition of "motor vehicle" and whether a person in a wheelchair is a "pedestrian" under Kansas law.

Unfortunately, a motorized wheelchair would fit within the definition of a motorized vehicle even though we seriously doubt that was ever the intention of the legislature. Furthermore, a person in a wheelchair is not considered a pedestrian under Kansas law since they are not "afoot."

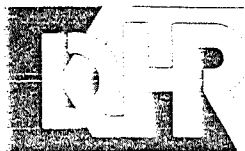
While it may seem unthinkable for anyone to strictly construe these definitions so as to interpret them to mean that a motorized wheelchair is a motor vehicle, let me assure you

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that it has occurred and can legally occur until the definitions are amended.

The occurrence I refer to came to our attention last year when a gentlemen in a wheelchair was warned that he could not legally hunt from his wheelchair because it was illegal to hunt from a motor vehicle. The second situation involved a person who was in a wheelchair and was told he could not ride on the sidewalk because motor vehicles were not allowed on sidewalks.

Although we believe these are extreme cases and the majority of individuals are reasonable, this bill would enable the disabled individuals to be treated more fairly and equitably and would stop the ability of a person to legally reach the ludicrous interpretations I described above. Therefore, I respectfully request you pass favorably House Bill No. 3015. Thank you.



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# Kansas Department of Human Resources

Joan Finney, Governor  
Joe Dick, Secretary

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## **Commission on Disability Concerns**

1430 S.W. Topeka Boulevard, Topeka, Kansas 66612-1877  
913-296-1722 (Voice) -- 913-296-5044 (TDD)  
913-296-4065 (Fax)

February 25, 1992

Testimony on HB 3015  
by the  
Kansas Commission on Disability Concerns

before the  
House Transportation Committee

Mr. Chairman and members of the committee, the Kansas Commission on Disability Concerns testifies today in favor of HB 3015. The bill would amend the current statutes which define "motor vehicles" and "pedestrians". It would exempt motorized wheelchairs from the definition of "motor vehicle" and add a person operating a manually or mechanically propelled wheelchair to the definition of "pedestrian".

Our office has received numerous phone calls from persons concerned about a motorized wheelchair being considered as a motor vehicle. Some of the concerns were from persons who were required to obtain a special permit to hunt from a motor vehicle in addition to their regular hunting license. Another concern is that if motorized wheelchairs are considered as motor vehicles, and motor vehicles are not allowed in places of business, then how would a person in a motorized wheelchair legally enter a place of business?

Questions such as these will be cleared up by the amendments proposed in HB 3015. KCDC recommends this Committee take favorable action on HB 3015 and that it be passed by the Committee of the Whole.

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*ATTACHMENT 6*

## REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

Your Committee on Transportation

Recommends that House Bill No. 2823

"AN ACT relating to motor vehicles; concerning certificates of title for repossessed vehicles; amending K.S.A. 8-116a and 8-135 and repealing the existing sections."

Be amended:

On page 1, by striking all in lines 13 through 43;

On page 2, by striking all in lines 1 through 36;

And by renumbering sections accordingly;

On page 5, in line 11, before the period, by inserting: ", except that when a vehicle is registered in another state, but is financed originally by a financial institution chartered in the state of Kansas or when a financial institution chartered in Kansas purchases a pool of motor vehicle loans from the resolution trust corporation or a federal regulatory agency, and the vehicle is repossessed in another state, such Kansas financial institution shall be entitled to obtain a valid Kansas title or registration";

On page 8, in line 35, by striking "8-116a and"; also in line 35, by striking "are" and inserting "is";

On page 1, in the title, in line 9, by striking "8-116a and"; in line 10, by striking "sections" and inserting "section";

And the bill be passed as amended.

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Chairperson

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