

Approved

4.8.92

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 March 25, 1992 in room 519-S of the Capitol.

All members were present except:

Representative Kent Campbell Representative Jan Pauls
Representative Vernon Correll Representative Mark Parkinson
Representative John McClure

Committee staff present:

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

Conferees appearing before the committee:

Sub-Committee report on House Bill 2628 - Predatory Pricing

Chairman Dillon called on Representative Gross, chairman of Sub-Committee, to report on the recommendations of the Sub-Committee pertaining to the Kansas Motor Fuel Marketing Act. Members of this Sub-Committee included: Representative Delbert Gross, Chairman, Representative Darrel Webb and Representative Rex Crowell. Representative Gross outlined the reasons why no action was taken on the bill. He recommended that Legislative Post Audit conduct an independent study on this issue. He also said additional information was needed. (Attachment 1)

Representative Crowell pointed out that the Sub-Committee vote was 2 to 1 with Representative Crowell voting no. He explained to the Committee the reasons why he believed the Committee should have taken action on the bill. He said such proposed legislation should have allowed the sale of gasoline to operate in a free enterprise system while at the same time recognized and addressed certain unfair pricing practices. (Attachment 2)

Representative Shallenburger moved to adopt the Sub-Committee report. Representative McKechnie seconded. Motion carried.

Introduction of a draft on proposed House Resolution - Proposal to change the Federal standard on window tint. (Attachment 3)

Representative Gross made the motion to introduce the Resolution. Representative Webb seconded. Motion carried.

Meeting adjourned at 1:55.

SUB-COMMITTEE REPORT

RE: PREDATORY PRICING

1. Sub-Committee recommends no action be taken at this time.
2. Sub-Committee further recommends a Legislative Post Audit study be conducted and report back to ^{the Interim, if there is one,} ~~this Committee~~ before the 1993 Legislature begins.
3. At this time there is no conclusive evidence predatory pricing exists in Kansas.
4. Large part of the problem is competition for market share both at retail market, i.e., Retailers vs. Retailers, as well as Refiners vs. Refiners i.e., Majors vs. Majors.
5. After audit report is submitted to the Transportation Committee, this Committee could submit legislation if it deems appropriate for the 1993 Legislative Session, and if evidence conclusively provides facts that predatory pricing exists.
6. The action of this Sub-Committee in no way suggests that Mr. Nicolay and others who represent the oil marketers have not presented their case in a professional and ethical manner as did their opposition.
7. This Sub-Committee believes that more information is needed before responsible and effective legislation can be enacted.

DL

Representative Gross
Sub-Committee Chairman

*House Transportation
3-25-92
ATTACHMENT 1*

Subcommittee Report
Minority Report

As one of the three subcommittee members who was assigned to make recommendations on H.B. 2628, I wish to point out that I voted no on the recommendations outlined in the subcommittee report. I believe that this subcommittee, the standing committee, and an 1991 interim committee have been presented sufficient information upon which to make a decision. There appears to be two thoughts on this issue. There are those who believe that with respect to the marketing of gasoline in Kansas, the free market is the principal determinant which should set the price of gasoline. On the other hand, there are committee members who believe that unfair pricing in the sale of gasoline should not be left unaddressed. We might disagree about what amounts to unfair pricing practices; I do not believe, however, that additional information is needed. I believe that the Committee should have made an attempt to craft legislation that would have been acceptable to the concerned parties. In my view, such proposed legislation would allow the sale of gasoline to operate in a free enterprise system while at the same time recognizing and addressing certain unfair pricing practices.

Sincerely,



Representative Rex Crowell

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3-25-91
ATTACHMENT 2

PROPOSED RESOLUTION

WHEREAS, the State of Kansas is one of at least 37 states that will be impacted by the proposed changes in the federal regulation on window tinting which was published by the National Highway Traffic Safety Administration (NHTSA) in the January 22, 1992 Federal Register (57 FR 2496, Docket No. 89-15; Notice 2); and

WHEREAS, the proposal allows no tinting of the front side windows, 70% film on rear windows, and 45% film on rear side windows; and

WHEREAS, the State of Kansas has had a window tint law since 1987 which permits film, when used in conjunction with glass, to have a light transmission of no less than 35%. It is applicable to all side and rear windows on passenger vehicles with no compromise to traffic safety or law enforcement; and

WHEREAS, it is estimated that there are more than 400,000 vehicles in this State tinted in compliance with Kansas law; and

WHEREAS, NHTSA proposes to extend the tinting standards to multipurpose passenger vehicles (trucks, vans, motor homes, etc.) which have for years allowed darker windows behind the driver with no compromise to traffic or law enforcement safety; and

WHEREAS, according to NHTSA, its proposed standard would preempt state laws on window tinting of new cars, and prohibit window tint businesses from installing tinting, thus causing economic devastation to those businesses and adversely impacting the revenue of this state; and

WHEREAS, such proposal would deny vehicle owners the right to the enhanced quality of life provided by the film presently allowed under the laws of this state; and

WHEREAS, NHTSA does not have accident data to support the proposed rulemaking, and

WHEREAS, NHTSA has stated it does not preempt the states in the regulation of window tint on vehicles-in-use but they will prosecute businesses which install it; and

BE IT HEREBY RESOLVED that the State of Kansas abhors the attempted intrusion of NHTSA into State's rights and recommends that NHTSA modify its proposal to be in accord with the laws of the majority of the states; and that it specifically reaffirm that it does not preempt the states rights to regulate the vehicle-in-use.

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BE IT FURTHER RESOLVED that there is no correlation to safety relative to who installs window film; therefore, the State of Kansas strongly recommends that NHTSA accept the Federal Court decision that window tinters do not come under its purview and that it cease its efforts to prosecute them for conducting their business in accordance with the laws of their states.

ADOPTED AND SIGNED THIS DATE-----