

Approved: 3/22/96
Date

MINUTES OF THE HOUSE COMMITTEE ON TRANSPORTATION.

The meeting was called to order by Chairperson Kenneth King at 1:30 p.m. on March 18, 1996 in Room 526-S of the Capitol.

All members were present except:
Representative Delbert Crabb, excused

Committee staff present: Hank Avila, Legislative Research Department
Tom Severn, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
Ellie Luthye, Committee Secretary

Conferees appearing before the committee:
Terry Heidner, Department of Transportation

Others attending: See attached list

SB 493 - coordinated transit district act

Hearings opened. The Chair called on staff to give a briefing. The important part of the bill was in lines 22-25 of Section 1, not creating an employment relationship between coordinated transit districts or individual transportation service providers and the state of Kansas.

The Chair called on Terry Heidner who spoke in support of **SB 493**. He stated the amendments in this bill would clarify that the establishment of Coordinated Transit Districts is not intended to create an employment relationship between the districts and the State of Kansas but that the Department of Transportation acts only as a conduit for the distribution of federal funds rather than an employer. The second amendment would remove the State of Kansas from the employer status, and thereby liable for the provisions afforded to the transit unions operating in Kansas as defined in Section 13 of the Federal Transit Act, by obtaining a waiver to this agreement. He concluded this amendment would restore the Department to the same legal position it held prior to the passage of the Kansas law establishing the CTD's. (Attachment 1)

Mr. Heidner told the committee there are fifteen Coordinated Transit Districts in the state and each county is assigned to one of the districts. The purpose of these districts is for better efficiency in transit services, better communication and better coordination of services.

There being no other conferees the Chair closed hearings on **SB 493**.

The Chair announced there would be discussion and final action on all bills previously heard in committee.

SB 574 - cancellation of agreements between vehicle dealers

The Chair called attention to written testimony from Jeffrey Chanay, Motorcycle Industry Council, Inc. concerning this bill. (Attachment 2)

Representative Shore made a motion to remove motorcycles from the bill (h), seconded by Representative McKinney and the motion carried.

Representative Shore made a motion to require local sales tax be paid in the county where the registration takes place, seconded by Representative Presta.

Following discussion Representative Powell made a substitute motion to pass **SB 574** as amended, seconded by Representative Donovan and the motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TRANSPORTATION, Room 526-S Statehouse, at 1:30 p.m. on March 18, 1996.

SB 493 - coordinated transit district act

Representative Presta made a motion to pass SB 493 favorably, seconded by Representative McKinney and the motion carried.

SB 440 - designating part of U.S. 54 as Cannonball Stageline Highway

Representative McKinney made a motion to pass SB 440 favorably, seconded by Representative Presta and the motion carried.

SB 401 - secretary of transportation, powers, study feasibility of certain toll or turnpike projects

Representative Correll made a motion to pass SB 401 favorably, seconded by Representative Donovan and the motion carried.

SB 254 - concerning salvage vehicle dealers

Representative Presta made a conceptual motion to strike Section 2 and Section 5 and to make any technical changes regarding dates, seconded by Representative Shore and the motion carried.

Representative Presta made a motion to pass SB 254 favorably, as amended, seconded by Representative Shore.

Representative Dawson made a substitute motion to table SB 254, seconded by Representative Pauls and the motion fails.

The Chair called for a vote on the motion by Representative Presta to pass SB 254 as amended and the motion carried.

SB 393 - distinctive drivers' licenses for deaf or hard of hearing

Representative Shore made a motion to amend SB 393 to state that the one document presented for drivers under the age of 16 must contain the birth date, seconded by Representative Myers and the motion carried.

Representative Correll made a motion to pass SB 393 favorably, as amended, seconded by Representative Shore and the motion carried.

The minutes for the Transportation Committee for March 12th, 13th and 14th were presented for approval or corrections. Representative Dillon made a motion to accept the minutes as written, seconded by Representative Correll and the motion carried.

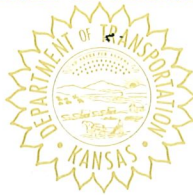
The Chair announced this would be the last meeting of the Transportation Committee for 1996 and thanked each of the members for their support.

The meeting adjourned at 2:40 p.m.

HOUSE TRANSPORTATION COMMITTEE GUEST LIST

DATE: March 18, 1996

NAME	REPRESENTING
Betty McBride	KDOR DMV
John Smith	KDOR DMV
Tom Whitaker	KS Motor Carrier
Madeline Ann Smith	KIMHA
Kam Dornier	KS Auto DLIS Assn
Rick Davis	KS Motorcycle Industry Council
JOHN FEDERICO	PETE McBill + Assoc
Jeff Chaney	Motorcycle Industry Council



KANSAS DEPARTMENT OF TRANSPORTATION

E. Dean Carlson
Secretary of Transportation

*Docking State Office Building
Topeka 66612-1568
(913) 296-3566
TTY (913) 296-3585
FAX (913) 296-1095*

Bill Graves
Governor of Kansas

**TESTIMONY BEFORE THE
HOUSE TRANSPORTATION COMMITTEE
REGARDING SENATE BILL 493**

March 18, 1996

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear before you today to provide testimony supporting Senate Bill 493.

The proposed legislation amends the statutory language in K.S.A. 75-5051 et seq., regarding the Coordinated Transit Districts (CTDs). The amendments include:

1. A clarification of the roles between the CTDs and the Kansas Department of Transportation; and
2. A revision of terms and references that has resulted from changes in the Federal Transit Act and its codification into U.S. Law.

Specifically, the amendment in this proposed legislation clarifies that the establishment of Coordinated Transit Districts is not intended to create an employment relationship between the Coordinated Transit Districts or individual transportation service providers and the State of Kansas. At present, the Kansas Department of Transportation administers the distribution of grant monies from the Federal Transit Administration for their Section 16 program (49 U.S.C. #5310), which provides transportation services to elderly or disabled passengers; and for their Section 18 program (49 U.S.C. #5311), which provides public transportation services to the general public in non-urbanized areas of the state. This amendment clarifies the role of the Kansas Department of Transportation to be a conduit for the distribution of Federal funds rather than an employer.

*House Transportation Committee
March 18, 1996
Attachment 1*

In order for a public body to receive Section 18 funds from the Federal Transit Administration, there is a labor protection agreement with the U.S. Department of Labor pursuant to Section 13(c) of the Federal Transit Act, commonly referred to as "13c" that the public body has to sign. This agreement basically places the public body in the status of an employer just like the "Greyhound Corporation", and makes the public body liable for the provisions afforded to the transit unions operating in Kansas. States have generally removed themselves from the employer status by obtaining a waiver to this agreement since the transit service areas of the individual providers of these transportation services are in relatively small rural areas where there are no, or almost no transit union employees.

We believe that this amendment is needed to restore the Department to the same legal position it held prior to the passage of the Kansas Law establishing the CTDs, since the operational relationship between the Department and its providers has not changed.

Memorandum

DATE: March 18, 1996
TO: House Transportation Committee
FROM: Jeffrey A. Chanay/Motorcycle Industry Council, Inc.
RE: SB 574

The Motorcycle Industry Council, Inc., a non-profit national trade association representing motorcycle distributors and allied trades, would like to request that a Senate amendment to Senate Bill 574 exempting motorcycle manufacturers and distributors from certain provisions of the bill not be modified by the House Transportation Committee.

Subsection (h) of SB 574, as added by the Senate Judiciary Committee, exempts first and second stage manufacturers or distributors of motorcycles from the provision of the bill. Thus, in its present form, SB 574 applies only to automobiles.

The operative provisions of Senate Bill 574 are the result of negotiations between the automobile dealers and manufacturers. However, there is no such agreement between motorcycle dealers and manufacturers. It is suggested that the buy back and lease provisions, which impose obligations on the free-market contract rights of the parties to such a contract, should not be adopted without the agreement of the parties to such a contract. In the absence of such an agreement in the motorcycle industry, the provisions of SB 574 should not be imposed on this industry.

It is also critical to note that the Kansas Automobile Dealers Association, which requested SB 574, did not oppose the motorcycle exemption language found in subsection (h). Indeed, there were no opponents to this amendment in Senate Committee or on the floor of the Senate.

Attached to this memorandum is a statement of position of the Motorcycle Industry Council prepared initially to obtain the amendment now contained in subsection (h) of SB 574. As you can see from this statement of position, there are material differences between the automobile industry and motorcycle industry, and thus SB 574 cannot be neatly imposed on the motorcycle industry.

Thank you for your consideration of these comments, and on behalf of the Motorcycle Industry Council, I would request that subsection (h) as passed by the Senate not be amended or deleted.

*House Transportation Committee
March 18, 1996
Attachment 2*

**GOVERNMENT
RELATIONS OFFICE**



**MOTORCYCLE
INDUSTRY**

COUNCIL, INC. 1235 Jefferson Davis Hwy., Suite 800, Arlington, VA 22202-3261 • (703) 416-0444 • FAX (703) 416-2268

The Motorcycle Industry Council is a nonprofit national trade association which represents motorcycle distributors and over 140 other companies involved in allied trades. The Council wishes to express its opposition to certain provisions contained in SB 574.

Reimbursement of Dealer Facility Rental Costs

Motorcycle franchises should be excluded from the provision of SB 574 which requires manufacturers or distributors to pay money to a terminating dealer for the dealer's dealership premises.

While this may have some applicability in the auto industry, motorcycle dealerships are not similar to automobile dealerships in terms of their facilities. Whereas car dealerships are housed in single-use facilities, specifically designed to be auto dealerships, the vast majority of motorcycle dealers are in multiple-use facilities, often in strip malls and the like. Auto dealerships are often multi-million dollar operations occupying large unique showrooms, multi-acre display areas and service buildings housing special installed lift equipment and dedicated service bays. Motorcycle dealerships are generally basic store front operations. They are typically much smaller and much more flexible and are very adaptable to many types of uses. They can easily be converted to any number of retail establishments, from carpet stores to clothing chains if the dealership ceases to operate. Accordingly, in the motorcycle industry this type of provision is unnecessary and would only provide a windfall to a small group of dealers at the ultimate expense of the consumer.

Motorcycle distributors do not require enormous facility investments as do some auto manufacturers. However, the costs associated with some poorly managed dealerships are often remarkably high. It is one of the few contributors to dealer cost but yet is responsible for the bulk of the cost. A law requiring the manufacturer or distributor to pay the dealer for his facilities will hide the chronic facility cost problem (over-investment in the facility by the dealership's upper management), rather than bring it out in the light and convert it into alarm signals that would stimulate corrective action before the ownership overextended itself to the point of jeopardizing the operation. A dealer who overinvests in his facilities or poorly manages his business would be insulated from risk if protected by a law requiring the franchisor to reimburse the dealer for his facility rental costs if the franchise is terminated for any reason.

A manufacturer or distributor should not be put in a position of having to be in the real estate business after a dealer has been terminated, especially since the law provides that a dealer can only be terminated for good cause.

Inventory Repurchase Requirements

Motorcycle franchises should be excluded from the inventory repurchase requirements.

These provisions add extensive inventory repurchase obligations upon any franchise termination, regardless of the reason. While the financial impact of these provisions may not be significant to auto and truck manufacturers, they will be significant to some of the manufacturers of motorcycles. These added costs of doing business ultimately result in higher prices to consumers. Again, the manufacturer becomes a financial

guarantor for the dealer. A dealer can, over the course of many years, order too many parts and have a parts department bloated with parts which the manufacturer must repurchase at the dealer price listed in the current parts catalog. This price may well be above the price that the dealer originally paid for the part. Therefore, a dealer who goes out of business for any reason, is guaranteed the return of his investment in inventory and may very well make on profit on it as well. This seems neither reasonable nor fair.

Very few if any businesses enjoy such protections as afforded by the above provisions of SB 574. Motorcycle dealers do not pay any franchise fee to the manufacturer or distributor for the privilege of becoming dealers. Accordingly, manufacturers and distributors should not be required under law to insulate their dealers from loss when other business owners assume that risk in the free enterprise system.