

Approved: 1-29-97  
Date

MINUTES OF THE HOUSE TRANSPORTATION COMMITTEE.

The meeting was called to order by Chairperson Gary K. Hayzlett at 1:30 p.m. on January 23, 1997 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Hank Avila, Legislative Research Department  
Julian Efird, Legislative Research Department  
Bruce Kinzie, Revisor of Statutes  
Jackie Buchanan, Committee Secretary

Conferees appearing before the committee:

Betty McBride, Division of Vehicles, Department of Revenue  
N.R. Sherbert, Anderson & Associates  
Michael Byington, Wichita Industries & Services for the Blind, Inc.  
Bill Felber, Executive Director, Manhattan Mercury  
Roz Hutchinson, President, Kansas Pro Chapter/Society for Professional Journalists  
Charles R. Warren, Chairman, Information Network of Kansas  
Charles Freeman, Secretary, AARP State Legislative Committee for the State of Kansas  
Chuck Knapp, Director of Communications, Kansas Secretary of State's Office  
Walter Darling, Director of Fiscal Services, Kansas Highway Patrol

Others attending: See attached list

The minutes of the January 14 meeting were presented for corrections or approval. Representative Correll made a motion to accept the minutes as written, seconded by Representative Shore, and the motion carried.

**HB 2010 - Division of Vehicles, records, prohibiting disclosure of personal information.**

Hearing was opened. The proponents were called to testify first. The Chair called on Betty McBride, Director of Vehicles, Department of Revenue, who presented testimony that **HB 2010** will reaffirm compliance, by the State of Kansas, with the Federal Driver's Privacy Act of 1994. The Privacy Act gives individuals with registered vehicles and licensed drivers the option to close their personal information to individuals and businesses purchasing information from state records for marketing purposes. The Act provides exceptions allowing personal information to remain open for governmental agencies, courts, law enforcement, employers and insurers. She advised the Committee of the procedures the Department has implemented to insure Kansas is in compliance with the Federal Act, no later than September 13, 1997. A provision included in **HB 2010** allows the sale of open public records for marketing purposes to only three entities in the State of Kansas. The Department is concerned about the loss of revenue and loss of control of the records. (Attachment 1)

The Chair called on N.R. Sherbert, Anderson & Associates, representing the Polk Company speaking as a proponent of the bill. He offered no written testimony. He stated the bill was drafted so it would not be a burden on the State of Kansas and allowed for the tapering-in of other companies, and he didn't feel this bill was intended to be self-serving to the Polk Company and would not have any objection to having this bill amended to include all marketing and survey companies.

The Chair called on Michael Byington, Wichita Industries & Services for the Blind, Inc., to present his testimony. Mr. Byington supports the bill but proposes an amendment to include non-driving Kansas identification cards, not just driver's licenses. (Attachment 2)

## CONTINUATION SHEET

MINUTES OF THE HOUSE TRANSPORTATION COMMITTEE, Room 526 -S Statehouse, at 1:30 p.m. on January 29, 1997.

The next proponent to testify was Bill Felber, Executive Director, The Manhattan Mercury, requesting an amendment stipulating that field of public communication media be exempted from the bill. He feels without the amendment it would hamper the public communications media's ability to address legitimate public safety issues of drivers. (Attachment 3)

The Chair called on Roz Hutchinson, President, Kansas Pro Chapter/Society for Professional Journalists, to present testimony in support of the bill with an amendment that the press be exempted from the bill. (Attachment 4)

Written testimony was submitted by John Reinhart, Director of Government Relations, Kansas Press Association, requesting amendment to the bill that the press be exempted from the bill. (Attachment 5)

The Chair called on the first opponent of the bill, Charles Warren, Chairman, Information Network of Kansas, indicating concern the bill would allow companies who currently acquire drivers' records for the sole purpose of notifying Kansans of automobile safety and recall information to sell that information to direct mail and direct marketing companies. (Attachment 6)

The Chair called on Bruce Kinzie, staff, for clarification concerning the marketing survey language of the bill for those individuals given a bulk rate, or contract rate.

The Chair called on Jeff Fraser, Information Network of Kansas, to clarify the bulk rate for INK of 5 cents a record for the specific purpose of allowing automobile manufacturers to notify people who bought their cars of recalls. His concern is that the proponents of this bill will obtain these records at the 5 cent bulk rate then, they will sell them to anyone for any amount. INK keeps records of requests for information. The State will lose roughly \$4 million if this marketing survey portion of the bill is passed.

The second opponent to testify before the committee was Charles H. Freeman, Secretary, AARP, Kansas State Legislative Committee. Mr. Freeman opposed the bill because all information that is necessary for tele-marketing and business under the Open Government Records Act can be obtained through normal channels. (Attachment 7)

The Chair called on Chuck Knapp, Director of Communications, Kansas Secretary of State's Office, stating his office is not taking a formal position on the bill, but wanted to publicly state how important the Information Network of Kansas is to the dissemination of information between his office and the people of Kansas. (Attachment 8)

Sgt. Terry Maple presented testimony as a neutral conferee for Walter Darling, Director of Fiscal Services for the Kansas Highway Patrol, as it was necessary for Mr. Darling to leave for another meeting. Presently the revenue from the sale of information is used by the state to off-set expenses that would otherwise be financed by tax revenues to the State General Fund. They wish to note their concern that any changes in the way the fees are assessed or the purposes for which the information can be resold could result in changes to the financing of the Highway Patrol. (Attachment 9)

To answer some questions of the committee, the Chair called on Bruce Kinzie, Staff, to clarify some parts of the bill. Currently the records are open. The bill allows persons the opt-in/opt-out choice except to a few agencies such as law enforcement, courts, insurance companies, and then the provision for the people that are allowed the bulk contract rate. Anyone else would pay the per record price. This bill sets out the information that cannot be closed. This bill sets out to which agencies/companies that information cannot be opt-out.

Hearing was closed on **HB 2010**. Chair appointed a Sub-Committee for this bill of Representative Dillon, Representative Howell and Representative Shore to address some of the concerns of committee members as well as conferees. Representative Dillon will serve as Chair.

Rosalie Thornburgh, Kansas Department of Transportation, requested introduction of a bill regulating traffic; concerning certain safety equipment; amending K.S.A. 8-1598 and K.S.A. 1996 Supp. 8-1344 and repealing the existing sections. Representative Dillon made a motion to introduce this bill, seconded by Representative Howell and the motion carried.

Meeting was adjourned at 3:05.

The next meeting is scheduled for January 29, 1997.

# HOUSE TRANSPORTATION COMMITTEE GUEST LIST

DATE: January 23, 1997

NAME	REPRESENTING
Charles H. Freeman	SLC - AARP
Roslyn M. Hutchinson	S.P.J. - Kansas Pro Chapter
Ken Baker	The Polk Company
Kelly Kuetala	City of Overland Park
John Peterson	The Polk Company
NORMAN K. STERBERG	" " "
Don Reynolds	K - RAC F
Paul Wallack	CIADISC
DAVID B. SCHLOSSER	PETE MCGILL ASSOCIATES
Jeff Fraser	INK
Steve Blantz	Hubbell + Assoc.
Rosalie Thornburgh	KDOT
Ken Clark	KDOR
Rick Scheibe	KDOR
Repty McBride	KDOR
Charles Wanner	Kansas, Inc.
Whitney Jamron	KS Auto Dealers Assn
Chuck Knapp	SOS
W. J. Fry	KS Auto DEALERS ASSN.

# HOUSE TRANSPORTATION COMMITTEE GUEST LIST

DATE: January 23, 1997

NAME	REPRESENTING
LONNIE R. McCollum	KHP
Ruthy Taylor	KBA
WALT DARLING	Kansas Highway Patrol
Matt Trull	AP
John Reinhart	Kansas Press
Martha Ann Smith	KMHA

**STATE OF KANSAS**

*Bill Graves, Governor*

**DEPARTMENT OF REVENUE**

*John D. LaFaver, Secretary*

Betty McBride, Director of Vehicles  
Kansas Department of Revenue  
915 SW Harrison St.  
Topeka, KS 66626-0001



(913) 296-3601  
FAX (913) 296-3852  
Hearing Impaired TTY (913) 296-3909

**Division of Vehicles**

**MEMORANDUM**

**TO:** The Honorable Gary Hayzlett, Chairman  
House Transportation Committee

**FROM:** Betty McBride, Director,  
Division of Vehicles *Betty McBride*

**DATE:** January 23, 1997

**SUBJECT:** House Bill #2010

Mr. Chairman, members of the Committee. I am Betty McBride, Director for the Division of Vehicles. I would like to express my appreciation to this Committee for the opportunity to appear before you today, to discuss passage of House Bill 2010.

House Bill 2010 will reaffirm compliance, by the State of Kansas, with the Federal Driver's Privacy Protection Act of 1994, passed by the United States Congress.

The act is intended to give individuals with registered vehicles and licensed drivers, the option to close their personal information to individuals and businesses purchasing information from state records for marketing purposes. The act does provide exceptions which allow personal information to remain open for governmental agencies, courts, law enforcement, employers and insurers. Any State Department of Motor Vehicles that has a policy or practice of substantial noncompliance with this act shall be subject to a civil penalty, imposed by the Attorney General, of not more than \$5,000 per day, for each day of substantial noncompliance.

Because the State of Kansas makes vehicle records public information which is available to individuals upon request, we must comply with the Driver's Privacy Protection Act, and implement an option out procedure for Kansas citizens, no later than September 13, 1997.

Although the Federal legislation does not take effect until September 13, 1997, which is also the deadline for states to be in compliance, the department felt it wanted to insure that a working system was in place by the September deadline. Therefore, we began providing the opt-out opportunity to Kansas citizens and collecting the data on January 2, 1997; however, we will not implement the option out system on line until September 13, 1997, at the time the Federal legislation takes effect. We felt it was important to notify Kansas citizens of their options in January and provide them the opt-out opportunity at that time for three reasons:

1) We want each citizen to have ample time to make an informed decision as whether they want to opt out or leave their record as an open public record

*House Transportation  
Attachment 1  
1-23-97*

2) We want to ensure the system is working correctly ahead of the required implementation date to avoid any penalties that could be assessed against the State from the Federal Act.

3) By starting in January, all 1997 vehicle and driver license renewals will receive the same information. This third reason is critical to avoid conducting a mass notification, such as a direct mailing, which would cost the state of Kansas over one million dollars.

The Driver's Privacy Act requires State Department of Motor Vehicles, to provide in a clear and conspicuous manner, an opportunity for individuals to prohibit disclosure of their personal information. The Department has implemented the following procedures to insure that Kansas is in compliance with the Federal Act:

1) The public has the opportunity to request that their record be closed at the time of receiving a driver license or registering a vehicle.

2) A mail in form is available upon request from the Department that can be completed and submitted to either the Department of Revenue in Topeka, or at a remote office (Driver License exam office or County Treasurer's office.) A copy is attached for your review.

3) Posters have been placed in a clear and conspicuous manner at all Revenue offices and County Treasurer's offices.

4) The next printing of the driver license handbook will have the opt out information included.

5) Vehicle registration renewals have an additional page to sign and opt out at renewal time. (Copy attached for your review).

6) Handout brochures with additional opt out information are available in each Division of Vehicles office or County Treasurer's office.

7) In December the Department issued news releases throughout the state to inform Kansas citizens of the opt out availability and their right to opt out.

Mr. Chairman, with these procedures in place, we feel the State of Kansas is in compliance with the Federal Driver's Privacy Protection Act.

A provision Included in House Bill 2010, Page 2 , line 14 allows the sale of open public records for marketing purposes. The department has no position on the issue of whether vehicle records should be used for marketing and feels this should be a legislative policy decision, made by this Committee. Survey and Marketing is not defined by the Federal Act nor in House Bill 2010 therefore, allowing the use of these records for marketing could mean that these records could be used for any purpose.

Thank you again for the opportunity to appear today, Mr. Chairman. I would stand for questions at this time.

**Kansas**  
**DMV**

# **Important Information**

## **THE SALE OF VEHICLE RECORDS**

Information on your Kansas driver's license and vehicle registration is — by Kansas law — open to the public. Anyone may buy your record today, individually or in bulk. For example, with your date of birth or Social Security number, your insurance agent can buy a copy of your driver's license record to verify whether you have a clean record. Or some companies today buy all Kansas drivers' license records to assist manufacturers in finding owners of vehicles with safety-related defects.

## **OPT-OUT**

Beginning January 1997, OPT-OUT gives you the option of withholding your address and other personally identifiable information from businesses or individuals who request your records on or after the implementation date of September 13, 1997. If you OPT-OUT, it may prevent someone from obtaining your address to find out where you live, or it may prevent unsolicited mail from being sent to your home. Of course, businesses can also obtain names and addresses from sources other than the State of Kansas, such as credit bureaus, warranty registrations and magazine subscriptions. So, OPT-OUT will not eliminate all solicitations — unwanted or otherwise. In addition, if you OPT-OUT, it will not totally eliminate the use of your record. There are exceptions specifically authorized by the Federal Privacy Act of 1994 which authorize the release of your records. For instance, your records may be used in research to produce statistical reports as long as personal information is not published. Your records may be used for surveys and marketing since Kansas provides an OPT-OUT program. And your records may be used by law enforcement.

## **HOW TO OPT-OUT**

If you would like to OPT-OUT, simply notify the clerk serving you. Please be advised you need to OPT-OUT for each type of vehicle record maintained by the Division of Motor Vehicles. Unfortunately, "opting out" through registration renewal for your automobile, for instance, does not automatically withhold your driving record. One OPT-OUT request is required for each vehicle record.

If you do not OPT-OUT, your records will be considered public records.

**KANSAS DEPARTMENT OF REVENUE  
DIVISION OF VEHICLES PO BOX 2188  
TOPEKA, KANSAS 66601-2188**

**DO YOU WISH TO HAVE YOUR NAME WITHHELD FROM DRIVER'S LICENSE  
AND VEHICLE REGISTRATION LISTS THAT ARE MADE AVAILABLE TO THE  
PUBLIC?**

In compliance with the Federal Privacy Act of 1994, the Kansas Division of Vehicles will provide vehicle owners or holders of a Kansas Driver's License or Identification Card the opportunity to protect their vehicle records, driver's license or identification card records from being obtained by any business or individual not specifically authorized to receive such information.

Beginning January 2, 1997, you may request to have your vehicle and driver's license records withheld from public use. Your request will be collected and held until the implementation date of **September 13, 1997**. The "OPT-OUT" program will then be implemented and your record cannot be sold except for exemptions specifically authorized by Federal and Kansas law.

Your choice to have your vehicle owner and registration records, driver's license or identification card records "withheld" will not totally eliminate the use of your record. There are exemptions specifically authorized by law which permit the use of these records. Choosing to have your record withheld may reduce mailings.

You may "opt-out" (request your vehicle record or driver license records be withheld) when you register your vehicle, renew your vehicle registration and/or when applying for or renewing your driver's license.

If no action is taken on your part to have these records withheld, pursuant to K.S.A. 74-2012, they will be considered public records.

**To request that your records be withheld, please check the appropriate box below and provide the requested information. A request to "Opt-Out" is required for each vehicle and for your driver's license or ID card.**

**PLEASE NOTE: Correct information must be submitted to ensure that your requested records are withheld.**

Yes, withhold my vehicle records from purchase or release for public use.  
(Vehicle owner must sign below.)

Vehicle Year	Make	License Plate No.	ID Number (VIN)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Yes, withhold my driver's license or identification card records from purchase or release for public use. (Licensee/card holder must sign below.)

Name as on Driver's License/I.D. Card	Driver's License/I.D. Card Number
Address	Date of Birth
City, State, ZIP	

<b>X</b>	
Signature (Required)	Date Signed



# IMPORTANT NOTICE

The Federal Privacy Act of 1994, provides that individuals may prohibit their State motor vehicle registration record and certain personal information, from being purchased or released for public use.

Beginning January 1997, OPT-OUT gives you the option of withholding your address and other personally identifiable information from businesses or individuals who request your records on or after the implementation date of September 13, 1997. Opting to have your vehicle record "withheld" will not totally eliminate the use of your record, as there are exceptions specifically authorized by law, which authorize the use of these records. However, opting to have your record withheld will reduce mailings that originate from other sources of information used by marketers.

**If no action is taken on your part indicating these records be withheld, pursuant to K.S.A. 74-2012 they will be considered public records.**

**To request that your record(s) be "withheld", please check the box below, sign on the appropriate line, and return with your renewal request.**

Yes, withhold my vehicle record from purchase or release for public use.

---

Signature Required

Date Signed

Vehicles which are jointly owned require signature of only one owner requesting information be "withheld."

Betty McBride, Director of Vehicles  
Kansas Department of Revenue  
915 SW Harrison St.  
Topeka, KS 66626-0001



(913) 296-3601  
FAX (913) 296-3852  
Hearing Impaired TTY (913) 296-3909

**Division of Vehicles**

**MEMORANDUM**

**TO:** The Honorable Gary Hayzlett, Chairman  
House Transportation Committee

**FROM:** Betty McBride, Director  
Division of Vehicles

**DATE:** January 24, 1997

**SUBJECT:** Addendum to testimony provided January 23, 1997,  
on House Bill #2010

House Bill 2010 limits the parties that will be granted permission to market these records to only three entities in the state of Kansas. However, we do have other companies which purchase records from the state.

These existing companies which purchase state records will not qualify under the proposed marketing provision. This could possibly limit or eliminate current or future Kansas businesses wishing to sell records.

The Department is concerned that fees received from businesses purchasing these records, but not allowed to market, could result in a major loss in revenue. As you will recall, last session, Senate Bill #662 was passed which created the electronic database fee fund. The fees collected from records sold is deposited into this fund and is used for maintenance and upgrades to the state and county computer systems such as VIPS and CAMA. Record fees collected from the entities which would be granted permission to market records are deposited into this fund also; however, they purchase records at a bulk rate, which is currently \$.05 cents per record. Other companies purchasing Kansas records are currently paying \$2.95 to \$5.00 per record. This results in a major difference in revenues received and credited to this fund.

WICHITA INDUSTRIES & SERVICES FOR THE BLIND, INC.

PLEASE REPLY TO: Michael Byington  
WISB Governmental Affairs Office  
P. O. Box 1063  
Topeka, Kansas 66601  
(913) 575-7477 (office and voice mail)  
(913) 233-2539 (FAX)

January 22, 1997

TO: House Committee on Transportation

FROM: Michael Byington, Director of Governmental Affairs

SUBJECT: House Bill 2010 - SUPPORT WITH AMENDMENTS

We have no problem with the substance of this bill, but we wish to propose an amendment. Add to line 21 of page one between the words "licenses" and "shall" the words, "and non-driving Kansas identification cards". Also, on page four, line 19, delete the word "driver."

Beginning in the mid-1970s, Kansas has had and implemented legal provisions to provide a State identification card to persons who can not obtain a drivers' license due to disabilities, or who choose not to drive a motor vehicle. It has been legislative intent that this non-driving identification card have the same force as a drivers' license for purposes of identification. All 50 States now have similar non-driving identification provisions.

In Kansas and other states over the past few years, however, there have been several disability related civil rights actions filed by individuals who could not obtain a state drivers' license, and who had the non-driving identification for their State, but who were nonetheless refused check-cashing or other identification requiring privileges from a public business based on the fact that the individual had no valid driver's license. Rulings on such cases, including a case which occurred in Kansas, have been that it is indeed discriminatory to refuse to accept a state non-driving identification card in leu of a drivers' license for identification PROVIDED THAT the rules of the state actually do make the non-drivers' identification card an equally effective form of identification as compared to the drivers' license.

Many people who are blind or visually impaired, and who do not drive, therefore want to make sure that each time

statutes regarding use of information relevant to the Kansas driver's license are amended, the non-driving identification card is also specifically included in the amended statutes. The amendments I have proposed here will have this purpose with regard to the body of law under discussion.

Currently, the State of Kansas is maintaining the non-drivers' identification records with drivers' license records, and in the same data base. This certainly has not consistently been the case throughout the history of the Kansas non-drivers' identification card, however. There is thus currently no problem with civil rights enforcement with regard to the right of a disabled person to have identification of the same legal force as is available to persons who do not have disabilities. As there have been problems in the past, however, we want to be certain that no avenue exists for them to develop again. The fact that the drivers' license and the non-driving identification card have the same force and are maintained in the same fashion, AND WITH THE SAME RESTRICTIONS AND LIMITATIONS, therefore needs to be clearly visible in State law, not just in operating procedures. This will also make the available legal protections available to businesses and merchants who have frequent occasion to require identification, more clear to Kansans who are engaged in commerce in our State.

Also, now that non-driving identification information and drivers' license information are indeed maintained in the same data base, it is important that the Legislature be extremely careful to make all laws applying to the release or restriction of information from that data base consistent for both drivers' licenses and non-driving identification cards. Otherwise, Kansas could be in the unenviable position of having to use differing release provisions for differing types of information on differing statuses of persons all located in the same data base. This could constitute quite an administrative conundrum.

Sincerely yours:

Michael Byington  
Director of Governmental Affairs

MB/mjb



MANHATTAN, KANSAS 66505-0787  
P.O. BOX 787  
OSAGE AT NORTH FIFTH STREET  
TELEPHONE (913) 776-2200  
FAX (913) 776-8807 EXT 227

Jan. 23, 1997

To: Rep. Gary Hayzlett, chairman, and Members, House Transportation Committee:

I asked to visit with you this afternoon for two purposes. The first is to endorse passage of HB 2010. This bill is constructive in that it codifies the general principle of public access to records that has been a staple of a well-informed Kansas citizenry.

The second is to urge your favorable consideration of amendments offered by the Kansas Press Association that would strengthen HB 2010 by making it more assertive and more functional with specific respect to the issue of reporting on matters of public safety.

This amendment stipulates that access to such records shall be made available, in addition to other organizations already delineated, to persons working in the general field of public communication media.

I address this issue with full respect for the legitimate public interest in the maintenance of privacy. I do not believe the Legislature ought to proceed in ignorance of this concern. Journalists, like lawmakers and like all citizens, value their privacy. However, legitimate concerns for privacy always have co-existed, and can continue to co-exist, with legitimate concerns for maintaining productive access to records. It is at the heart of the 1st Amendment that we do not lightly shut off information that enables us to deal with social problems. Let us keep in mind the curative power of sunshine.

In this case, public safety relates to the physical safety of drivers, passengers, pedestrians and property — of all who use the state's roadways. The Kansas City Star recognized this reality today. In an editorial commending this Committee's attention to the proposed KPA amendment, the Star's editors noted that not only is the federal bill an encroachment on state authority, but that access to such records has been a significant tool for many groups — including not only the press but also Mothers Against Drunk Driving — in the fight for public safety. Beyond that, as the Star correctly pointed out, while privacy is a sensitive and important matter, operation of a motor vehicle is a privilege extended by the state; it is not a right. As such, records pertaining to that operation ought properly to be considered in a different category from ordinary privacy protection. I have attached a copy of the Star's editorial as part of my testimony.

Happily, a prudent refinement of the proposed law governing access — as suggested by the KPA — can achieve the proper balance between these concerns.

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The amendment proposed by the KPA allow members of the media to examine a range of issues related to matters of public safety. As one example, were this bill in place — and were regulations pertaining to cost interpreted by the responsible state agency in a more reasonable manner — my newspaper would request records that would enable us to examine the safety records of licensed drivers in Riley County. On a daily basis, I publish information that causes me to view such questions as central to the interests of public safety. Those questions, the answers to all of which would be unknowable to me absent passage of HB 2010 as amended, include:

1. How many persons in Riley County are licensed to drive despite multiple convictions for offenses related to the unsafe operation of their vehicles?
2. How many of these drivers were convicted for offenses related to alcohol?
3. How many were convicted for offenses related to the use of other drugs?
4. How many licensed drivers who share our roads have demonstrated an ongoing disregard for laws designed to reduce the natural driving hazard...laws pertaining to egregious violations of speed, right-of-way, or reckless or careless driving?
5. What is the relationship of youth — or age — to driver safety, and does that relationship raise questions regarding state law in the general area of licensing?

The question may naturally arise whether the state has authority, under the federal law, to make such an exception. In response to that concern, I would cite subparagraph 14 of the section of the federal law pertaining to permissible uses, which authorizes the state to make exceptions to the federal ban “for any other use specifically authorized under the law of the State that holds the record, if such use is related to the operation of a motor vehicle or public safety.”

Passage of this law without the amendment offered by KPA would hamper our ability to address these legitimate safety issues; failure to pass the law in any form risks the undesirable consequence of sealing all of those issues from public scrutiny.

I hope you share my view that the public scrutiny function is one of the most important functions of the press in Kansas, or elsewhere for that matter. By way of illustration, let me cite a few instances where the performance of such a function has clearly impacted on matters of public safety.

A recent series of articles published in the Minneapolis Star-Tribune explored the topic of licensed commercial airline pilots who had driving records that included convictions for offenses related to alcohol abuse. This series of articles identified 41 licensed commercial pilots whose own driving licenses had been pulled due to alcohol-related offenses. It caused the Federal Aviation Agency to re-do its licensing regulations with an eye toward the removal from airplane cockpits of numerous pilots who constituted a potential threat to their passengers.

Also in Minneapolis, TV station WCCO used access to these types of records to expose the danger of the practice of issuing automobiles that had been totalled in other states “clean titles” in Minnesota, allowing some unscrupulous salespeople to then resell those same autos to unsuspecting new owners.

Similarly, the St. Paul Pioneer Press, accessing driving records which the Legislature of that state saw fit for purposes of public safety to maintain in a free and open manner, exposed a problem among the drivers of school buses.

In Murphysboro, Tenn., The Murphysboro American utilized access to such records to establish that a candidate for mayor did not meet the residency requirements pertinent to the office.

Through use of driving records, reporters working cooperatively in Minnesota and Tennessee were recently able to locate and identify a deadbeat dad who owed \$97,000 in back child support to his ex-wife; she was dying of cancer. Family service workers had been unable, or unwilling, to trace this dad.

We should and do expect the airlines, the school districts, and the various other public and private agencies who deal in transportation — to cite just one area — to have the public's best interests at heart. In the great majority of instances, those public and private agencies can and do fulfill that role appropriately.

Notwithstanding that, the examples I have cited illustrate the wisdom of allowing the press to function as it is designed to function — in a watchdog capacity that mirrors in a private fashion the functions the Legislature quite legitimately insists that the Bureau of Post Audit exercise for the state itself.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Felber", with a long horizontal flourish extending to the right.

Bill Felber  
Executive Editor

# THE KANSAS CITY STAR.

Vol. 117, Thursday, January 23, 1997, No. 128

An ABC Inc. Newspaper

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## Open the records

The Driver's Privacy Protection Act of 1994, part of the omnibus crime bill, is one of the more egregious federal encroachments on states' powers in recent years. The law, which supersedes state statutes, limits access to information in records kept by state departments of motor vehicles. Unless states pass laws that exempt them from the federal act, the restrictions apply.

A bill that would remove Kansas from the federal blackout has been introduced in the recently convened 1997 Legislature. The House Transportation Committee will conduct a hearing on the measure at 1:30 p.m. today in Topeka.

As written, House Bill No. 2010 would allow access to motor vehicle records, including driver's licenses, only to organizations such as law enforcement agencies, the courts and employers.

The legislation does not include the public or news media. Those omissions should be corrected. Indeed, these are public records that should be available to all citizens.

There have been many instances over the years in which journalists and others, including Mothers Against Drunk Driving, have found material in state records that was highly informative and revealing about public figures and employees, notably their driving and drinking

habits. Any limitation of access to that information could hamper the public's right to know.

Privacy is a sensitive constitutional protection. But driving a motor vehicle is a privilege in this nation, not a right. This distinction puts motor vehicle records in a different category than ordinary privacy protection. Moreover, if a state is opting out of the federal measure, it must give driver's license applicants the option of preventing their records from being released to direct mail firms or other firms intent on using the information for commercial purposes.

The matter of whether motor vehicle information should be open is a matter of debate. There is absolutely no question about which level of government should control that information. It is clearly a state responsibility that should not be infringed on by the federal government.

The federal mandate is being challenged in Oklahoma on First Amendment grounds and in South Carolina on 10th Amendment issues. The hope is the courts can halt this federal intrusion, which imposes a maximum \$5,000-a-day penalty for states that do not comply.

Kansas needs to avoid the federal records ban and keep this vital information open for the protection of all.

## Keep the NCAA

3-4

A welcome spirit of bistrate cooperation ex-headquarters and visitors center have included

Vertical text on the right edge of the page, possibly a page number or date stamp.

### All ages

I am a v...  
Adult Service  
in my age gr...  
born blind.  
the basics --  
mail, shoppi...  
But I also...  
are different...  
she can pick...  
to gift shops...  
and buy p...



## House Bill 2010: A reasonable approach

When Congress passed the Driver's Privacy Protection Act of 1994 — closing public and press access to motor-vehicle records — it did so with the idea that such an action would protect license-holders' right to privacy, and serve to protect the public from other members of the public who might use those records to do harm.

Unfortunately, the act also shuts the door on a group that routinely uses information contained in those records to protect the public's interest and prevent harm — the press. Consequently, Congress unwittingly has exposed its citizens to an even greater danger — being in the dark.

That means having to trust that others are looking out for their welfare, while having no means of checking up on that process. Having others who are a part of that process the ability to act with no one, no group looking over their shoulder to keep them honest.

And frankly, that is a more frightening prospect to me than the idea that someone might be able to look up my address — presently contained in hundreds of other data bases — or to see what weight I listed.

For example, a *Star Tribune* story involving commercial airline pilots with alcohol-related driving convictions might never have been possible had the reporter not had access to the driver's license data base.

And while I'm sure there are hundreds of other instances where accessibility to the driver's license data has led to stories that have led to public awareness and ultimately to policy or procedural changes, I'm equally sure that such access also has meant that a number of stories didn't need to be written because people tend to act more responsibly when they know that others might shine some light on their activities.

Fortunately, the federal law — which supersedes all state laws pertaining to release of motor-vehicles records — has a small crack through which daylight might enter. That is the opt-out provision, which allows states to enact legislation that would keep their motor-vehicle records open.

States that fail to exercise that option will see their motor-vehicle records closed to the public and the press as of Sept. 13. Let's not let Kansas be one of those states that through a well-intentioned attempt to protect the public have in actuality put the public at greater risk.

House Bill 2010 does not make records as accessible as some of us would like. Nor does it make them as inaccessible as others would like. But it does represent a compromise — and a more reasonable means to an end because it doesn't offer one form of protection while removing another.

I strongly urge you to lend your support to HB 2010. Thank you for your consideration.

Roz Hutchinson

President, Kansas Pro Chapter/Society for Professional Journalists

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# Kansas Press Association, Inc.

5423 SW 7th St., Topeka, KS 66606 • (913)271-5304 • Fax (913)271-7341  
<http://www.kspress.com>

DATE: 1.23.97  
FROM: John Reinhart  
Director of Government Relations  
Kansas Press Association  
TO: House Transportation Committee  
RE: HB 2010

The Kansas Press Association respectfully submits the following amendments to House Bill 2010:

HOUSE BILL No. 2010  
By Special Committee on Transportation  
12-17

AN ACT relating to the records of the division of vehicles; amending K.S.A. 1996 Supp. 74-2012 and repealing the existing section.

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

Section 1. K.S.A. 1996 Supp. 74-2012 is hereby amended to read as follows:  
74-2012. (a) All records of the division of vehicles shall be subject to the provisions of the open records act except as otherwise provided under the provisions of this section and by K.S.A. 1996 Supp. 74-2022, and amendments thereto.

(a) (b) All records of the division of vehicles relating to the physical or mental condition of any person, to expungement or except as provided further, any photographs maintained by the division of vehicles in connection with the issuance of drivers' licenses shall be confidential. Photographs or digital images maintained by the division of vehicles in connection with the issuance of drivers' licenses shall be available to law enforcement agencies for use in criminal investigations. 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 paragraph (1) or (2) of this subsection; or

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(4) an employer when a person is required to retain a commercial driver's license due to the nature of such person's employment.

All other records of the division of vehicles shall be subject to the provisions of the open records act except as otherwise provided by K.S.A. 1996 Supp. 74-2022 and amendments thereto or this section.

(b) (c) Lists of persons' names and addresses Personal information 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 requesting party may receive, such a list and accompanying personal information from public records of the division upon written certification that the requesting party shall use the list personal information 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 or (iii) have any defect to be remedied at the expense of the manufacturer; (B) 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; or (C) assisting the selective service system in the maintenance of a list of persons 18 to 26 years of age in this state as required under the provisions of section 3 of the federal military selective service act; or (D) assisting businesses authorized to receive records under subparagraphs (A) or (B) of this paragraph in bulk distribution for surveys or marketing, if: (I) Individuals are provided an opportunity to prohibit the disclosure of personal information under subsection (g); and (ii) the information will be used, rented or sold solely for bulk distribution for surveys or marketing and that such surveys and marketing will not be redirected at those individuals who have requested under subsection (g) not be directed at them.

(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) (d) If a law enforcement agency of this state furnishes information to a requesting party pursuant to paragraph (2) of subsection (b)(2) (c), the law enforcement agency shall charge the fee prescribed by the secretary of revenue pursuant to K.S.A. 1996 Supp. 74-2022, 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 K.S.A. 1996 Supp. 74-2022, and amendments thereto, shall be paid monthly to the secretary of revenue and upon receipt thereof shall be deposited in the state treasury to the credit of the electronic databases fee fund, except for the \$1 of the fee for each record required to be credited to the highway patrol training center fund under subsection (e) (f).

(d) (e) 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) (f) A fee in an amount fixed by the secretary of revenue pursuant to K.S.A. 1996 Supp. 74-2022, 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 paragraph (1) of subsection (b) (c), and such fee shall not be less than the cost of production or reproduction of any information requested. 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 record.

(g) The division of vehicles shall implement methods and procedures to ensure that individuals are provided an opportunity, in a clear and conspicuous manner, to prohibit the disclosure of personal information collected by the division of vehicles, except under the following situations:

(1) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a federal, state or local agency in carrying out its functions;

(2) for use in connection with matters of motor vehicle, *public* or driver safety and theft; motor vehicle emissions; motor vehicle product alterations; recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; and removal of nonowner records from the original owner records of motor vehicle manufacturers;

(3) for use in the normal course of business by a legitimate business or its agents, employees or contractors, but only:

(A) To verify the accuracy of personal information submitted by the individual to the business or its agents, employees or contractors; and

(B) if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual;

(4) for use in connection with any civil, criminal, administrative or arbitral proceeding in any federal, state or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a federal, state or local court;

(5) for use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed or used to contact individuals;

(6) for use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees or contractors, in connection with claims investigation activities, antifraud activities, rating or underwriting;

(7) for use in providing notice to the owners of towed or impounded vehicles;

(8) for use by any licensed private investigative agency or licensed security service for any purpose permitted under this subsection;

(9) for use by any employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2710 et seq.);

(10) for use by any requester, if the requester demonstrates it has obtained the written consent of the individual to whom the information pertains.

*(h) The Division shall not be considered to have disclosed or otherwise made available personal information when it verifies the accuracy of personal information already in the possession of individuals who are not officers, employees or contractors of the Division, provided that such verification shall be limited to informing such individuals whether the personal information in their possession is correct, and shall not include the provision of corrective information.*

(h) As used in this section "personal information" means information that identifies a person, driver identification number, name, address, including information on vehicular accidents, driving or equipment-related violations, but shall not include such information considered confidential under subsection (b).

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

*(11). Pursuant to section 2721(b)(14) of Title 18 of the United States Code, any person who has a purpose to disseminate to the public a newspaper, book, magazine, broadcast or other similar form of public communication, including dissemination by computer or other electronic means, may request the division to provide individual or bulk motor vehicle records, such dissemination being related to the operation of a motor vehicle, public or driver safety. Upon receipt of such request, the division shall release the requested motor vehicle records. It is the public policy of this state that records be open to the public unless otherwise provided by law. The disclosure provisions of this section shall be liberally construed and the exemptions strictly construed to promote this public policy.*

Sec. 2. K.S.A. 1996 Supp. 74-2012 is hereby repealed.

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

**THE KANSAS CITY STAR.**

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# Open the records

The Driver's Privacy Protection Act of 1994, part of the omnibus crime bill, is one of the more egregious federal encroachments on states' powers in recent years. The law, which supersedes state statutes, limits access to information in records kept by state departments of motor vehicles. Unless states pass laws that exempt them from the federal act, the restrictions apply.

A bill that would remove Kansas from the federal blackout has been introduced in the recently convened 1997 Legislature. The House Transportation Committee will conduct a hearing on the measure at 1:30 p.m. today in Topeka.

As written, House Bill No. 2010 would allow access to motor vehicle records, including driver's licenses, only to organizations such as law enforcement agencies, the courts and employers.

The legislation does not include the public or news media. Those omissions should be corrected. Indeed, these are public records that should be available to all citizens.

There have been many instances over the years in which journalists and others, including Mothers Against Drunk Driving, have found material in state records that was highly informative and revealing about public figures and employees, notably their driving and drinking

habits. Any limitation of access to that information could hamper the public's right to know.

Privacy is a sensitive constitutional protection. But driving a motor vehicle is a privilege in this nation, not a right. This distinction puts motor vehicle records in a different category than ordinary privacy protection. Moreover, if a state is opting out of the federal measure, it must give driver's license applicants the option of preventing their records from being released to direct mail firms or other firms intent on using the information for commercial purposes.

The matter of whether motor vehicle information should be open is a matter of debate. There is absolutely no question about which level of government should control that information. It is clearly a state responsibility that should not be infringed on by the federal government.

The federal mandate is being challenged in Oklahoma on First Amendment grounds and in South Carolina on 10th Amendment issues. The hope is the courts can halt this federal intrusion, which imposes a maximum \$5,000-a-day penalty for states that do not comply.

Kansas needs to avoid the federal records ban and keep this vital information open for the protection of all.

# Keep the NCAA

A welcome spirit of bistate cooperation exists as the Kansas City area strives to keep the NCAA's national headquarters and visitors center out of the clutches of Denver. Dallas or

headquarters and visitors center have included Overland Park and Kansas City, either near Crown Center or the Truman Sports Complex.

The frenzied and publicized bidding for the NCAA's national headquarters and visitors center

## All ages c...

I am a volunteer at Adult Services. I'm in my age group, born blind. I try the basics — basic mail, shopping,

But I also try are different. We she can pick out to gift shops and buy potpourri music concerts together for son friends. I took a sightseeing wheel chair out of town



5-5

# Editorial

## PARSONS SUN

*"Our liberty depends on freedom of the press and that cannot be limited without being lost. - Thomas Jefferson"*

Thursday, Jan. 2, 1997 Page 6

### Keep records open

attn: John Reinhard

In 1994, Congress passed the Federal Privacy Act that contained a little-known item requiring states to close drivers license records and motor vehicle registrations from public scrutiny.

Unless, that is, a state decided to exercise "opting out," whereby drivers indicate whether they want their record closed or not.

The problem is that those most anxious to close their records are the very ones whose records should be open to the public and those who have no record shouldn't care.

The law is not in the best interest of the public:

Sure, under the law a stalker would not be able to track down a person he's intrigued with through a license tag.

But how often does that actually happen outside of movies? And what's to prevent the stalker from doing what he does in the first place — follow the victim home?

The perceived crimes that can occur without closure have far less impact than the actual crimes that do occur, and will not be detected, if closure is allowed.

The Kansas City Star recently did a drivers license review of persons driving school buses in the metropolitan area.

Many of the people entrusted to safely transport children to and from school had highly undesirable dri-

ving records that included drunk driving.

The press has also used the ability to freely search driving records to report on the driving records of elected and public officials. They are not always flattering — and that information should not be hidden from the electorate.

In the state of Minnesota, press access to these records has been determined to be so necessary to the public good that state legislators granted a special exception to the press.

The Kansas Legislature should do the same.

Every infraction listed on a driver's record will still be a part of public record on the date an offense occurred, in the county that it occurred.

To close an easily accessible concentrated record of the same information appears to be a government attempt to protect those who are most likely to endanger the lives of the public.

Although citizens can begin signing closure requests today, the new law does not go into effect until September, giving legislators plenty of time to follow the lead of their wise peers in Minnesota.

Congress also needs to recognize the folly of such closure and reverse this portion of the privacy act.

January 23, 1997

**Testimony of  
Charles R. Warren, Chairman, Information Network of Kansas  
House Committee on Transportation  
House Bill No. 2010**

Good afternoon, Chairman Hayzlett and distinguished members of the House Committee on Transportation. My name is Charles Warren and I am the president of Kansas Inc. and chairman of the Information Network of Kansas (INK). On behalf of the Information Network of Kansas, I would like to thank you for the opportunity to comment on House Bill 2010.

INK was created by the Kansas Legislature in 1990 to provide electronic access to state, county, local and other public information to the citizens of Kansas. Individuals and businesses can access public information over the Internet via their personal computers on the INK network. INK is regulated by Kansas statutes, and is governed by a ten-member board appointed by the Governor. Other members of the INK board include Ron Thornburgh, Kansas Secretary of State; Dean Carlson, Secretary of Transportation; John LaFaver, Secretary of Revenue; and, representatives from Kansas libraries and private citizens of Kansas. For members of the committee who might not be familiar with INK, I have attached an informational handout to my testimony.

INK does not receive any public appropriations to fund its operations even though it provides a vast array of information services to the citizens of Kansas free of charge. A significant amount of INK's operating revenue comes from the sale of records. The negative fiscal impact to INK of this bill is estimated to be \$1.2 million. The Department of Revenue's fiscal note to the Division of Budget is approximately \$3 million, of that amount \$1.6 million goes to the Vehicle Operating Fund and \$1.4 million to the Kansas Highway Patrol.

I appear before you today to express concern for an apparent paradox in HB 2010. There are two distinct and important parts of HB 2010. One part, advocated by the Division of Motor Vehicles, is necessary to bring Kansas law into compliance with the Federal Driver's Privacy Protection Act (DPPA), which protects the privacy of personal information contained in driving records, including protection from undesirable marketing practices.

The second part of the bill, which is totally unrelated to compliance with Federal law, would allow companies who currently acquire drivers' records for the sole purpose of notifying Kansans of automobile safety and recall information to sell that information to direct mail and direct marketing companies.

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The State of Kansas has long been a leader in protecting citizens from harassment by marketers. In 1984, the Kansas legislature passed the Kansas Open Records Act, granting individuals access to public records. However, the Kansas legislature was keenly aware of the dangers of opening personal information without some safeguards. To protect Kansans from harassment, the Kansas Legislature enacted K.S.A. 21-3914, which makes it a criminal offense to use names and addresses from public records for marketing purposes.

With the exception of making certain motor vehicle record information available to insurance companies and automobile manufacturers for very limited purposes, Kansas motor vehicle records have been afforded the same protection as other records. Section 1, subsection (c)(1)(D) (on page 2 at line 14) of HB 2010 would circumvent the privacy protections of the Kansas Open Records Act and K.S.A 21-3914.

Subsection (D) would specifically allow personal information from Kansas motor vehicle records to be used for marketing purposes. Let me clarify the position of its supporters in plain English. Proponents of HB 2010, who can acquire this information only for auto safety and recall purposes, believe that the language in subsection (D) would allow them to then turn around and sell that information from motor vehicle records to anyone who would buy it for any purpose, including but not limited to junk mail and other non-requested solicitations.

The language in subsection (D) is not necessary to achieve compliance with the Federal Driver's Privacy Protection Act. In fact, by making the personal information contained in motor vehicle records available for direct marketing, it actually increases the concerns that the federal law was passed to protect against.

From the perspective of INK, it seems absurd to use legislation aimed at protecting Kansas citizens from an invasion of privacy as a vehicle to grant unprecedented access to personal information of Kansas citizens. The Federal Driver's Privacy Protection Act protects U.S. citizens from invasions of privacy that Kansas recognized over 10 years ago. We hope the Kansas legislature will recognize the value and necessity of the protection of privacy that they promised Kansas citizens more than a decade ago, and will continue to honor that promise.

As Chairman of the Information Network of Kansas, I respectfully recommend that in order to protect the privacy of the citizens of the State of Kansas and the continued financial viability of the Information Network of Kansas, Section 1, subsection (c)(1)(D) be deleted from House Bill 2010.



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**KANSAS STATE LEGISLATIVE COMMITTEE**

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January 23rd, 1997

Mr. Chairman and members of this Committee, I am Charles H. Freeman, Secretary of the AARP State Legislative Committee for the State of Kansas.

Attached you will find copies of our 1997 AARP State Legislative Committees Position Paper on promoting protection for all Kansans against fraud and abuse.

The Kansas AARP will promote legislation and education to protect the citizens of Kansas from such forms of fraud and abuse as questionable funeral practices, telemarketing fraud, unfair advertising, computerized mailing lists, services for a fee where government agencies offer the same service free, and promote product and home safety, fire safety, and privacy protection.

Studies by the Federal Trade Commission (FTC) and AARP reveal that many funeral homes are not complying with requirements concerning pricing. The widespread use of computers, credit cards and toll-free telecommunications has made at-home shopping for goods and services a welcome convenience, but this technology has also enabled criminals and con-artists to reach a vast audience. The National Consumers League estimates that consumers lose \$40 to \$60 billion per year to telemarketing fraud.

HB/2010 will tend to increase private information from the Motor Vehicle Department to the business and telemarketing industries. Many Kansans have their social security numbers on their Drivers License. When this was done, I am sure they had no idea their Motor Vehicle License information would be made public. Therefore, we must oppose this bill because we believe that all information that is necessary for telemarketing and business under the Open Government Records Act can be obtained through normal channels.

Respectfully Submitted,

*Charles H. Freeman*  
Charles H. Freeman - AARP-SLC

American Association of Retired Persons 601 E Street, NW Washington, DC 20049 (202) 434-2277

Margaret A. Dixon, Ed.D. *President*

Horace B. Deets *Executive Director*

*House Transportation*

*Attachment 7*

*1-23-97*



American Association  
of Retired Persons

## *Kansas State Legislative Committee*

### **1997 Position Paper**

#### **PROMOTE PROTECTION FOR ALL KANSANS AGAINST FRAUD AND ABUSE**

##### **POSITION**

The Kansas AARP will promote legislation and education to protect the citizens of Kansas from such forms of fraud and abuse as questionable funeral practices, telemarketing fraud, unfair advertising, computerized mailing lists, services for a fee where government agencies offer the same service free, and promote product and home safety, fire safety, and privacy protection.

##### **PROBLEM**

Studies by the Federal Trade Commission (FTC) and AARP reveal that many funeral homes are not complying with requirements concerning pricing. The widespread use of computers, credit cards and toll-free telecommunications has made at-home shopping for goods and services a welcome convenience, but this technology has also enabled criminals and con-artists to reach a vast audience. The National Consumers League estimates that consumers lose \$40 to \$60 billion per year to telemarketing fraud.

By using computerized mailing lists, unscrupulous marketers can target specific market segments for scams or questionable products. Older persons are often the target of scams involving misleading information which appears to be from a government agency or offers which appear to be free but are actually part of a profit-making scheme.

The U.S. Consumer Product Safety Commission estimates that 600,000 people over 65 years of age are treated each year in hospital emergency rooms for injuries associated with fraudulent products they live with or use in their homes. This population has an accidental death rate three times that of younger Americans.

## **SOLUTION**

Kansas needs legislation which will provide for protection against these and other fraudulent practices. Educational programs to provide information to protect from such practices, laws to alert those who deal in such practices to know the consequences of their actions, and penalties for those who commit such offenses are needed.

## **RESOURCES**

AARP Public Policy Agenda, 1996

AARP Consumer Statute Notebook, 1996

Alice Hamilton Nida, Attorney, Kansas Department on Aging

## **CONTACTS**

For more information

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## Testimony on HB 2010

Chuck Knapp  
Director of Communications  
Kansas Secretary of State's Office  
1/23/97

Mr. Chairman and members of the committee:

Thank you for the opportunity to address the committee this afternoon. Although the Secretary of State's office is not taking a formal position on HB 2010, we do want to publicly state how important the Information Network of Kansas is to the dissemination of information between our office and the people of Kansas.

While the Secretary of State's office is charged with nearly 600 statutory and constitutional responsibilities, our primary role is to file public documents. We have volumes of information stored in our agency. However, that information is of no use to the public if we have inadequate means of distribution. We have found the Information Network of Kansas to be a secure, reliable conduit through which that information can flow.

The mission of the Secretary of State's office is to be the "least complicated, most accessible agency in state government." In addition to excellent, hard-working people, we have in large part been able to meet this goal through the use of technology.

Some of the technological advances in the Secretary of State's office include allowing electronic searches of our Corporate and Uniform Commercial Code databases by anyone who has access to INK; Kansas was the first state in the nation to offer electronic filing of Uniform Commercial Code documents on a wide-spread basis; and our Internet site provides forms, publications, and important information free of charge. All of these customer service enhancements have come as a result of support from the Information Network of Kansas.

INK has enabled us to help bankers make loans quicker, allows customers to receive information at their convenience and the Secretary of State's office has been able to reduce staff positions as a result of many of the efficiencies realized by our utilization of electronic technology. INK and the Secretary of State's office enjoy a strong partnership which has benefited your constituents and our customers -- the people of Kansas.

Again, thank you for this opportunity. I would now be pleased to respond to your questions.

*House Transportation  
Attachment 8  
1-23-97*

**Kansas Highway Patrol**  
**Summary of Testimony**  
**House Bill 2010**  
before the  
**House Transportation Committee**  
presented by  
**Walter V. Darling**  
**January 23, 1997**

Good afternoon Mr. Chairman and members of the committee. My name is Walt Darling, Director of Fiscal Services for the Kansas Highway Patrol and I appear before you today on behalf of Superintendent Lonnie McCollum to comment on House Bill 2010.

The Highway Patrol is unclear as to the full impact of the new wording included in subparagraph (c)(1) in section 1, which is located on page two of HB 2010. Presently, most individuals and companies must obtain information from the data-base of the Department of Revenue on a per-record basis and pay a required fee to the state. The revenue from the sale of information is used by the state to off-set expenses that would otherwise be financed by tax revenues to the State General Fund. If the new language offered in the current version of the bill would reduce the revenue to the state from this source, it would increase the amount of state expense to be financed from the State General Fund by an equal amount.

The Governor's budget recommendation to the Legislature for FY 1998 includes estimated revenue to the Patrol of \$1.5 million from charges established under existing language. While a portion of this legislation is required to implement federal law, we wish to note our concern that any changes in the way the fees are assessed or the purposes for which the information can be resold could result in changes to the financing of state agencies such as ours.

I wish to thank you for your time and will stand for any questions you may have.

#####

*House Transportation*  
*Attachment 9*  
*1-23-97*