

Approved: 2-19-97
Date

MINUTES OF THE HOUSE TRANSPORTATION COMMITTEE.

The meeting was called to order by Chairperson Gary K. Hayzlett at 1:30 p.m. on February 11, 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:

Representative Jim D. Garner
Helen Stephens, Kansas Peace Officers Association and Kansas Sheriffs Association
Representative Don Myers

Others attending: See attached list

Minutes of the February 3 and February 4 meetings were presented for corrections or approval. Representative Dillon made a motion to accept the minutes as written, seconded by Representative Howell, and the motion carried.

HB 2040 - Unlawful use of driver's license or non-driver's identification card

Hearing was opened. The Chair called on Representative Jim D. Garner who presented testimony in support of **HB 2040** concerning penalties for displaying a revoked or suspended driver's license. Legislation passed last year made it a felony to possess or display a revoked or suspended driver's license. **HB 2040** returns the penalty provisions to the level as it existed before 1996; first offense is a Class B misdemeanor for displaying a revoked or suspended driver's license. Representative Garner encouraged committee to act on **HB 2040** or one of the other bills relating to this subject. (Attachment 1)

Chair called on Betty McBride, Director, Division of Vehicles, Kansas Department of Revenue, who advised she did not plan to testify for **HB 2040**, but was planning to testify on February 12 for one of the other bills relating to this subject. She explained the reason for requesting this legislation was people were coming in with fraudulent documents in order to obtain a driver's license. Since this legislation was enacted, there has been a notable decrease in number of people trying to obtain driver's licenses in this manner. It was not the intent of the Division of Vehicles to have people arrested as a felony for displaying a revoked or suspended driver's license under this statute, but still feel we need legislation to prevent obtaining a license with fraudulent documents.

Chair called on Helen Stephens, representing Kansas Peace Officers Association and Kansas Sheriffs Association, testifying in support of **HB 2040**, but requested that items (5) be made, and (7) remain a severity level 9, non-person felony. Item (5) is use of a false or fictitious name in any application for a driver's license and Item (7) covers the manufacturing of false ID's. (Attachment 2)

Hearing was closed on **HB 2040**.

HB 2100 - Failure to drive on roadway

Hearing was opened. The Chair called on Representative Don Myers who presented testimony in support of **HB 2100** concerning prohibiting driving a vehicle off the roadway on a road right-of-way such as a grassy area. (Attachment 3)

CONTINUATION SHEET

MINUTES OF THE HOUSE TRANSPORTATION COMMITTEE, Room 526 -S Statehouse, at 1:30 p.m. on February 11, 1997.

Concern was shown by committee members regarding farmers driving into their fields, wide farm machinery, moving farm equipment to fields, and very slow-moving traffic when having difficulty with a vehicle.

Hearing was closed.

Meeting was adjourned at 2:05.

The next meeting is scheduled for February 12, 1997.

HOUSE TRANSPORTATION COMMITTEE GUEST LIST

DATE: February 11, 1997

NAME	REPRESENTING
Tiffany Smith	Washburn Student
Ken Clark	KDOR
Gary Carter	KDOR
Betty McBride	KDOR
Don Myers	Legislator
T. MAPLE	KHP
Kelly Kuitala	City of Overland Park
Tom Whitaker	Ks Motor Carriers Assoc
Ken Balis	Economic Lifelines
Mary E. Turkington	Ks Motor Carriers Assn.
Kelen Stephen	KPOA/KSA
JOHN C. BOTTENBERG	Ks Ethanol Assoc.

TESTIMONY IN SUPPORT OF
HB 2040
11 FEBRUARY 1997

Mr. Chairman and Members of the House Transportation Committee:

Thank you for the opportunity to present testimony in support of House Bill 2040, concerning penalties for displaying a revoked or suspended drivers license.

Last session the Legislature passed HB 2665. This was a large bill dealing with a number of issues and one section increased the penalties for violating KSA 8-260. In effect, the penalty changes made it a felony to possess or display a revoked or suspended drivers license. This change has had some unintended consequences. The law on driving on a revoked or suspended drivers license has long been governed by a graduated sanction penalty provisions of KSA 8-262. First offense is a Class B misdemeanor, the second offense is a Class A misdemeanor, and the third is a Level 9 felony. The changes last year has had the practical effect of making a first offense a felony.

Attached to my testimony is a letter from an attorney in Syracuse, Kansas, Mr. Robert Gale. Mr. Gale shares two actual stories of how this change has resulted in extreme actions taken against drivers stopped with a suspended license. I have also heard concerns from attorneys in Wichita and other parts of Kansas about the excessive penalty under the new changes.

HB 2040 simply returns the penalty provisions to the level as it existed before 1996. I appreciate your favorable attention to this request. I will be glad to stand for questions.

Thank you.

Jim D Garner, State Representative
11th District

*House Transportation
Attachment 1
2-11-97*

Law Office of
GALE & GALE
P.O. BOX 906
211 N. MAIN
SYRACUSE, KANSAS 67878

ROBERT H. GALE, SR.
(1922-1988)
ROBERT H. GALE, JR.

AREA CODE 316
384-5110
FAX (316) 384-5231

January 10, 1997

Honorable James Garner
State Capital
Topeka, KS 66612

Re: K.S.A. 8-260(b), 1996
Amendment

Dear Jim,

Thanks for taking time to speak with me.

As I told you, I believe that 1996 amendment to K.S.A. 8-260(b) whereby "possession of any...suspended...drivers license" was made a Level 9 felony, is one of the worst pieces of legislation I have seen.

After I spoke with you I talked to Betty McBride, Director of the Division of Vehicles about this and the D.M.V. had supported the change because they were having lots of problems in western Kansas primarily with the illegal aliens using "bad" licenses to obtain green cards. She said it wasn't the intent for this amendment to be a traffic enforcement law as, of course, the Kansas Highway Patrol troops have begun using it. She says the Attorney General's Office has called her and also wants it changed and now she agrees and understands the issue.

One of the problems is with the amendment and its abuse that anyone arrested for this violation will have a felony arrest on their record and that being a frequent job application question will forever haunt these folks.

I have two (2) horror stories to relate to you about this amendment.

The first story is my client, Scott, a minister in Alabama. He received a speeding ticket in Alabama, his first ticket in eight (8) years. The congregation voted him out of their pulpit, he moved home to Kansas and forgot to deal with the speeding ticket. Alabama suspended his license but the notice was not forwarded on to Scott. He comes to visit his parents in Syracuse for Thanksgiving, gets stopped for speeding in Kearny County, and is arrested and jailed for this new felony and driving while suspended. He has to post a \$3,500 bond to be released from jail.

The second story is about Dee. She is not my client but was in Court and needed a ride so the Clerk asked me to give her a ride from Lakin to Syracuse. She is twenty-six (26) years old and came to Kansas from Virginia to be the principal at the Syracuse Christian Academy. She is six (6) months pregnant when on New Year's Day she was stopped for speeding 73 m.p.h. in a 65 m.p.h. zone and arrested on felony possession of a suspended license and driving while suspended. She had no way to make bond so she had to stay in jail until she could see the Judge late Thursday.


These are two (2) examples of how this amendment has been used and I contend abused. Now these two young people will forever have felony arrest records regardless of whether the County Attorney dismisses the cases or not.

I trust you will be able to get this law repealed as soon as possible and perhaps a change could be made retroactive, as their may well be some County Attorney that has obtained a conviction.

Also, I would hope that Kansas Highway Patrol would order their troopers to not make these arrests until the legislature can act to correct this mistake.

Thank you for your time.

Kindest Regards,


Robert H. Gale, Jr.

RHG:js

cc: Attorney General's Office
Betty McBride, Director of D.M.V.
Representative Gary Hayzlett
Senator Steve Morris
Kansas Highway Patrol

KANSAS PEACE OFFICERS ASSOCIATION

and

KANSAS SHERIFFS ASSOCIATION

House Transportation Committee

February 11, 1997

House Bill No. 2040

Mr. Chairman and Members of the Committee:

My name is Helen Stephens, representing KPOA and KSA; we are here today to support parts of HB 2040 and request an amendment.

We believe it is right to change items (1), (2), (3), (4), (6), and (8) to a class B misdemeanor, but we would ask that items (5) be made, and (7) remain a severity level 9, nonperson felony.

The use of a false or fictitious name in any application for a driver's license, etc., is commonly used to commit fraud for money; or worse. Item (7) covers the manufacturing of false IDs, which is a high-profit business.

We ask the committee to support HB 2040 with items (5) and (7) being a severity level 9, nonperson felony.

I thank you for the opportunity to speak to you and would stand for questions.

*House Transportation
Attachment 2
2-11-97*

DON MYERS
REPRESENTATIVE, 82ND DISTRICT
SEDGWICK COUNTY
613 BRIARWOOD
DERBY, KANSAS 67037
(316) 788-0014 HOME



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
CHAIR: UTILITIES
MEMBER: ENVIRONMENT

STATE CAPITOL BUILDING, ROOM 175-W
TOPEKA, KANSAS 66612-1504
(913) 296-7696

Testimony - HB 2100
House Transportation Committee
February 11, 1997

Present statutes do not clearly prohibit the driving of a vehicle off the roadway on a road rightaway such as a grass area.

A case in Sedgwick county involving a traffic violation which went to a jury trial has pointed out the need for clarity in the statutes.

The Sheriffs Officer spotted a car driving along side of a road on the edge of a golf course. Suspect was apprehended and cited for not driving on the road, also for DUI. Suspect hired an attorney and went to a jury trial. The attorney used as a defense that statutes do not prohibit driving on the grass beside a highway. The jury did find the suspect guilty on both counts but at an unnecessary cost of court time and money.

The Sheriffs Officer and Judge have asked for this clarification to the statute in order that this does not happen again.

Don Myers

*House Transportation
Attachment 3
2-11-97*