

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND TOURISM

The meeting was called to order by Chairman Ben Vidricksen at 9:05 a.m. on February 25, 1997 in Room 254-E of the Capitol.

All members were present except:

Committee staff present: Hank Avila, Legislative Research Department  
Emalene Correll, Legislative Research Department  
Bruce Kinzie, Revisor of Statutes  
Marian Holeman, Committee Secretary

Conferees appearing before the committee: Dan Boyd  
Helen Stephens  
Steve Rarrick  
Pat Barnes  
John Peterson  
Amelia McIntyre

Others attending: See attached list

**SB 157 MOTOR VEHICLES - SUN SCREENING DEVICES**

Dan Boyd, Private Investigator, Wichita, KS asked for introduction of the bill. He testified that an important requirement was left out; i.e., that the agency/owner would be responsible for removal of the sun screening devices prior to disposal/sale of any vehicle containing such devices or if the owner is no longer a licensed investigator. No written testimony. Helen Stephens, representing Kansas Peace Officers Association and Kansas Sheriffs Association, advised that both organizations support the bill (Attachment 1).

Senator Harrington moved to amend SB 157 to meet removal requirement. Senator Tyson seconded the motion. Motion carried. Senator Harrington moved to recommend SB 157 favorable for passage as amended. Senator Huelskamp seconded the motion. Motion carried. Senator Harrington will carry the bill.

**SB 134 MIXING STRIPS - ROAD MATERIAL STORAGE**

Committee members discussed the information presented in the February 13, 1997 hearings on **SB 134**. Members recognize the magnitude of the problems experienced by Mr. & Mrs. Winkel. Secretary Carlson's response to questions raised during his February 13, 1997, was provided to members (Attachment 2). However, all agreed that it is not feasible to undertake projects of the extent called for in this bill. It was moved and seconded to recommend SB 134 unfavorable for passage. Motion carried. Members concurred the Chair should see that a letter is directed to KDOT, recommending the Department see what can be done to reduce the distress created by the operation of the mixing strip adjacent to the Winkel farm. Surely some measures can be taken to abate the noise levels. The Committee also recommends careful consideration be given to future placement of mixing strips in order to avoid similar problems in the future.

**SB 180 SCHOOL BUSES - SEAT BELTS**

Members considered testimony presented February 18th on **SB 180** requiring seat belts in school buses. The consensus was that it is not something to be implemented at this time for a multitude of reasons. It was moved and seconded to recommend SB 180 unfavorable for passage. Motion carried.

**SB 265 DRIVERS LICENSE - DISPLAY OR POSSESSION OF FALSE**

Hearings were held on **SB 265** on February 19th and it was apparent more work was needed on the bill. The AG's staff advised that language was worked out on minor changes to the satisfaction of all parties concerned. Staff explained a balloon on the bill which incorporates these changes. **SB 265** does not deal with non-

driver I. D's. Senator Huelskamp moved to include identification cards in this bill on the same basis as driver's licenses. Senator Tyson seconded the motion. Motion carried. Senator Harrington moved to recommend favorable for passage SB 265 as amended. Senator Salmans seconded the motion. Motion carried.

### **SB 266 REGARDING MOTOR VEHICLES - CONSUMER PROTECTION**

Members returned to consideration of **SB 266** which was heard February 21st. Steve Rarrick, Deputy Attorney General, discussed the balloon on the bill (Attachment 3). They still want to include items discussed on February 21, 1997. The Attorney General does not oppose eliminating Sec. 1 (2) "final estimate," and renumbering following paragraphs. Mr. Rarrick stated their continued opposition to exemption of tire dealers. They have no objections to proposed changes on pages 2, 3, and 4 up to Sec. 2(4) beginning on line 24. They do not support "salvageable motor vehicle" change. The penalty payments go to the Attorney General's Office. They still support the amendments attached to their original testimony.

Pat Barnes, Kansas Automobile Dealers Association, discussed their proposed amendments. It was also suggested the proposed effective date for New Section 1 be changed to January 1 rather than on publication in the statute book. John Peterson briefly explained amendment contained in the document from the Insurance Auto Auctions regarding definitions of salvageable and salvage vehicles. Tire dealers also requested amendments. Staff was asked to incorporate all the proposed amendments into one proposal. Committee will again consider the bill when that is ready.

### **SB 278 RE PRAIRIE SPIRIT TRAIL AS PART OF PARK SYSTEM**

### **SB 293 PRAIRIE SPIRIT TRAIL MORATORIUM**

### **SB 294 DESIGNATION AS PART OF PARK SYSTEM**

Hearings were held on **SB 278** and **SB 279** on February 24th. The Committee began discussion of the Prairie Spirit Trail bills. At this time approximately seventeen miles of the trail are completed and in use. Phase I has been completed. Phase II is to let contracts in April. Phase III has not yet been funded. Wildlife and Parks is not urging Phase III be included in the system. **SB 293** and **SB 294** were one bill in the House. **SB 278** puts the total Prairie Spirit Trail in Allen, Anderson and Franklin Counties into the Park System. The Allen County part has not yet even been proposed to be done.

Senator Tyson presented two amendments. Discussion of these amendments included removal of any pay for serving on a proposed task force to study the property rights, etc.; reasons for and against putting trails into the park system. Amelia McIntyre, attorney for Wildlife and Parks, presented testimony and a proposed amendment in support of **SB 278** and in opposition to **SB 293** (Attachment 4). Senator Goodwin pointed out that most of the people in the state who do not want to give up the right-of-way, in fact have no rights to the land. When owners have not come in and claimed possession, did the upkeep and all that, or those titles from the 1800's have not maintained the reversionary interest which was only placed on the original deed and not passed on down to the following ones. Discussed imminent domain rights for Wildlife and Parks which is less comprehensive than that of Kansas Department of Transportation, and the law Kansas has on the books called adverse possession. The Railroads and the Department have been paying taxes on the land in question. It is not treated as agricultural land. Staff requested to coordinate information and return to this bill as soon as possible

The meeting adjourned at 10:10 a.m.

The next meeting is scheduled for 7:15 a.m., February 26, 1997.

SENATE TRANSPORTATION AND TOURISM  
COMMITTEE GUEST LIST

DATE: FEBRUARY 25, 1997

NAME	REPRESENTING
Julene Miller	AG
Nancy Lindberg	AG
Louise Showalter	Kansas Independent Glass Dealers
Ronald Kasper	
Don Deaver	The Coleman Co.
Tom Whitaker	Ks Motor Carriers Assn
Dora Bond	CKT
Helen Stephens	KPOA/KSA
TOM PALACE	KOMA
Shawn Henrichs	MATDA
Jerry Hover	KDWP
Rick Scheibe	KDOR
Whitney Damon	KS Auto Dealers Assn.
DON L. McNEELY	KS Auto Dealers Assn.
PAT BARNES	Ks. Auto Dealers Assn.
Betty M. Bride	KDOR
Tony Green	AG
Steve Barriek	A.G.
Dean Carlson	KDOT



**KANSAS PEACE OFFICERS ASSOCIATION**  
and  
**KANSAS SHERIFFS ASSOCIATION**

Senate Transportation Committee

February 25, 1997

Senate No. 157

Mr. Chairman and Members of the Committee:

My name is Helen Stephens, representing KPOA and KSA; we are here today to support SB 157.

Both organizations believe this would lend to the success of surveillance efforts and investigations. One other "minor" benefit would be to the safety of those conducting the surveillance or investigations.

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

SENATE TRANSPORTATION & TOURISM  
2/25/97  
ATTACHMENT 1



KANSAS DEPARTMENT OF TRANSPORTATION

E. Dean Carlson  
*Secretary of Transportation*

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Topeka 66612-1568  
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FAX (913) 296-1095*

Bill Graves  
*Governor of Kansas*

February 18, 1997

The Honorable Ben E. Vidricksen, Chairman  
Senate Committee on Transportation and Tourism  
Room 143-N, Capitol Building  
Topeka, Kansas 66612

Dear Chairman Vidricksen:

This information is being provided to you in response to questions that were asked during testimony before the Senate Committee on Transportation and Tourism regarding S.B. 134.

Alarms on KDOT equipment are required by federal regulation. Specifically, 29 CFR 1926.602 is the regulation dealing with alarms on earth moving equipment, which would include our motor graders, loaders, etc., and 29 CFR 1926.601 deals with alarms on motor vehicles used in off-highway sites, which would include our dump trucks. (CFR 1926.602 also covers agricultural equipment, but would only affect farmers who are subject to OSHA regulation.) Copies of both regulations are attached.

These regulations require the equipment to be equipped with a backup alarm which must be maintained in an operative condition. Although the regulations allow the use of an employee on the ground to provide the signal as an option, case law involving compliance with this regulation has established that if that method is used and someone is injured by backing equipment, a finding of violation is going to be made and result in substantial fines and civil liability. In fact, KDOT recently settled a case where a contractor employee was killed by a KDOT pickup truck backing up, which was not required to be so equipped. The contractor employee was bent over behind the pickup, out of view of the driver's mirrors or windows. A backup alarm might well have prevented this accident.

SENATE TRANSPORTATION & TOURISM  
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ATTACHMENT 2

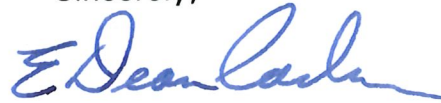
2.1

Senator Vidricksen  
February 18, 1997  
Page Two

The same KDOT equipment that is used on mixing strips is also used in a variety of other settings, and it is not possible to provide ground watchmen for each piece of equipment to assure that backing can be done safely, without the need for the alarms. Concern for the safety of our employees and, in some settings, others who might be in the vicinity, dictates our use of the automatically activated alarms which provide warning to individuals who might not be visible to the operator of the equipment. Current equipment does not permit the volume of the alarm to be adjusted.

I hope this information is sufficient to address your Committee's concerns. If additional questions arise, please do not hesitate to contact me.

Sincerely,



E. Dean Carlson  
Secretary of Transportation

§ 1926.602 Material handling equipment.

Click to view or print entire section

(a) Earthmoving equipment; General

(1) These rules apply to

the following types of earthmoving equipment: scrapers, loaders, crawler or wheel tractors, bulldozers, off-highway trucks, graders, agricultural and industrial tractors, and similar equipment.

The promulgation of specific rules for compactors and rubber-tired "skid-steer" equipment is reserved pending consideration of standards currently being developed.

(2) Seat belts.

(i) Seat belts shall be provided on all equipment covered by this section and shall meet the requirements of the Society of Automotive Engineers, J386-1969, Seat Belts for Construction Equipment. Seat belts for agricultural and light industrial tractors shall meet the seat belt requirements of Society of Automotive Engineers J333a-1970, Operator Protection for Agricultural and Light Industrial Tractors.

(ii) Seat belts need not be provided for equipment which is designed only for standup operation.

(iii) Seat belts need not be provided for equipment which does not have roll-over protective structure (ROPS) or adequate canopy protection.

(3) Access roadways and grades.

(i) No employer shall move or cause to be moved construction equipment or vehicles upon any access roadway or grade unless the access roadway or grade is constructed and maintained to accommodate safely the movement of the equipment and vehicles involved.

(ii) Every emergency access ramp and berm used by an employer shall be constructed to restrain and control runaway vehicles.

(4) Brakes. All earthmoving equipment mentioned in this § 1926.602(a) shall have a service braking system capable of stopping and holding the equipment fully loaded, as specified in Society of Automotive Engineers SAE-J237, Loader Dozer-1971, J236, Graders-1971, and J319b, Scrapers-1971. Brake systems for self-propelled rubber-tired off-highway equipment manufactured after January 1, 1972 shall meet the applicable minimum performance criteria set forth in the following Society of Automotive Engineers Recommended Practices:

- Self-Propelled Scrapers..... SAE J319b-1971.
- Self-Propelled Graders..... SAE J236-1971.
- Trucks and Wagons..... SAE J166-1971.
- Front End Loaders and Dozers..... SAE J237-1971.

(5) Fenders. Pneumatic-tired earth-moving haulage equipment

(trucks, scrapers, tractors, and trailing units) whose maximum speed exceeds 15 miles per hour, shall be equipped with fenders on all wheels to meet the requirements of Society of Automotive Engineers SAE J321a-1970, Fenders for Pneumatic-Tired Earthmoving Haulage Equipment. An employer may, of course, at any time seek to show under § 1926.2, that the uncovered wheels present no hazard to personnel from

23



flying materials.

- (6) Rollover protective structures (ROPS). See Subpart W of this part for requirements for rollover protective structures and overhead protection.
- (7) Rollover protective structures for off-highway trucks.

The promulgation of standards for rollover protective structures for off-highway trucks is reserved pending further study and development.

- (8) Specific effective dates-brakes and fenders.
  - (i) Equipment mentioned in paragraph (a)(4) and (5) of this section, and manufactured after January 1, 1972, which is used by any employer after that date, shall comply with the applicable rules prescribed therein concerning brakes and fenders. Equipment mentioned in paragraphs (a) (4) and (5) of this section, and manufactured before January 1, 1972, which is used by any employer after that date, shall meet the applicable rules prescribed herein not later than June 30, 1973. It should be noted that, as permitted under § 1926.2, employers may request variations from the applicable brakes and fender standards required by this subpart. Employers wishing to seek variations from the applicable brakes and fenders rules may submit any requests for variations after the publication of this document in the Federal Register. Any statements intending to meet the requirements of § 1926.2(b)(4), should specify how the variation would protect the safety of the employees by providing for any compensating restrictions on the operation of equipment.
  - (ii) Notwithstanding the provisions of paragraphs (a)(5) and (a)(8)(i) of this section, the requirement that fenders be installed on pneumatic-tired earthmoving haulage equipment, is suspended pending reconsideration of the requirement.
- (9) Audible alarms.
  - (i) All bidirectional machines, such as rollers, compacters, front-end loaders, bulldozers, and similar equipment, shall be equipped with a horn, distinguishable from the surrounding noise level, which shall be operated as needed when the machine is moving in either direction. The horn shall be maintained in an operative condition.
  - (ii) No employer shall permit earthmoving or compacting equipment which has an obstructed view to the rear to be used in reverse gear unless the equipment has in operation a reverse signal alarm distinguishable from the surrounding noise level or an employee signals that it is safe to do so.

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§ 1926.601 Motor vehicles.

Click to view or print entire section

- (a) Coverage. Motor vehicles as covered by this part are those vehicles that operate within an off-highway jobsite, not open to public traffic. The requirements of this section do not apply to equipment for which rules are prescribed in § 1926.602.
- (b) General requirements.
  - (1) All vehicles shall have a service brake system, an emergency brake system, and a parking brake system. These systems may use common components, and shall be maintained in operable condition.
  - (2)
    - (i) Whenever visibility conditions warrant additional light, all vehicles, or combinations of vehicles, in use shall be equipped with at least two headlights and two taillights in operable condition.
    - (ii) All vehicles, or combination of vehicles, shall have brake lights in operable condition regardless of light conditions.
  - (3) All vehicles shall be equipped with an adequate audible warning device at the operator's station and in an operable condition.
  - (4) No employer shall use any motor vehicle equipment having an obstructed view to the rear unless:
    - (i) The vehicle has a reverse signal alarm audible above the surrounding noise level or:
    - (ii) The vehicle is backed up only when an observer signals that it is safe to do so.
  - (5) All vehicles with cabs shall be equipped with windshields and powered wipers. Cracked and broken glass shall be replaced.

Vehicles operating in areas or under conditions that cause fogging or frosting of the windshields shall be equipped with operable defogging or defrosting devices.
  - (6) All haulage vehicles, whose pay load is loaded by means of cranes, power shovels, loaders, or similar equipment, shall have a cab shield and/or canopy adequate to protect the operator from shifting or falling materials.
  - (7) Tools and material shall be secured to prevent movement when transported in the same compartment with employees.
  - (8) Vehicles used to transport employees shall have seats firmly secured and adequate for the number of employees to be carried.
  - (9) Seat belts and anchorages meeting the requirements of 49 CFR Part 571 (Department of Transportation, Federal Motor Vehicle Safety Standards) shall be installed in all motor vehicles.
  - (10) Trucks with dump bodies shall be equipped with positive means of support, permanently attached, and capable of being locked in position to prevent accidental lowering of the body while maintenance or inspection work is being done.
  - (11) Operating levers controlling hoisting or dumping devices on haulage bodies shall be equipped with a latch or other device which will prevent accidental starting or tripping of the mechanism.
  - (12) Trip handles for tailgates of dump trucks shall be so arranged that, in dumping, the

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operator will be in the clear.

(13)

- (i) All rubber-tired motor vehicle equipment manufactured on or after May 1, 1972, shall be equipped with fenders. All rubber-tired motor vehicle equipment manufactured before May 1, 1972, shall be equipped with fenders not later than May 1, 1973.
- (ii) Mud flaps may be used in lieu of fenders whenever motor vehicle equipment is not designed for fenders.

(14) All vehicles in use shall be checked at the beginning of each shift to assure that the following parts, equipment, and accessories are in safe operating condition and free of apparent damage that could cause failure while in use: service brakes, including trailer brake connections; parking system (hand brake); emergency stopping system (brakes); tires; horn; steering mechanism; coupling devices; seat belts; operating controls; and safety devices. All defects shall be corrected before the vehicle is placed in service. These requirements also apply to equipment such as lights, reflectors, windshield wipers, defrosters, fire extinguishers, etc., where such equipment is necessary.

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# SENATE BILL No. 266

By Committee on Transportation and Tourism

2-11

9 AN ACT concerning motor vehicles; relating to consumer protection;  
10 amending K.S.A. 50-651 and K.S.A. 1996 Supp. 50-645 and repealing  
11 the existing sections.

12  
13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. (a) For purposes of this section:

15 (1) "Consumer" means any individual or sole proprietor who requests  
16 repair work or an estimate of repair work on a motor vehicle;

17 ~~[-(2)- "final estimate" means the last estimate approved by the con-~~  
18 ~~sumer either in writing or orally, as evidenced by the written repair es-~~  
19 ~~timate.]~~

20 ~~[-(3)- "motor vehicle" means a motor vehicle which is registered for a~~ (2)  
21 ~~gross weight of 16,000 pounds or less, but does not include a recreational~~  
22 ~~vehicle as defined by subsection (f) of K.S.A. 75-1212, and amendments~~  
23 ~~thereto.]~~ (3)

24 ~~[-(4)- "motor vehicle repair shop" means any person or business which,~~ (4)  
25 ~~for compensation, engages in repairing, servicing or maintaining motor~~  
26 ~~vehicles owned by other persons and includes, but is not limited to, new~~  
27 ~~car dealers, used car dealers, garages, service stations, self-employed in-~~  
28 ~~dividuals, truck stops, machine shops, tire dealers, department stores,~~  
29 ~~retailers, paint and body shops, brake, muffler or transmission shops, and~~  
30 ~~shops doing upholstery or glass work.]~~

31 ~~[-(5)- "repair work" includes mechanical repairs, alterations and main-~~ (4)  
32 ~~tenance services and any diagnostic work incident thereto, including, but~~  
33 ~~not limited to, body work, painting, warranty work and other work cus-~~  
34 ~~tomarily undertaken by motor vehicle repair shops, but does not include~~  
35 ~~towing services.]~~

36 (b) Unless expressly waived in writing by the consumer as provided  
37 in paragraph (c), when any consumer requests a motor vehicle repair shop  
38 to perform repair work on a motor vehicle, the charge for which will  
39 exceed \$150, excluding sales tax, the shop shall prepare a written repair  
40 estimate, which is a form setting forth the estimated charge for repair  
41 work, including diagnostic work, before effecting any diagnostic work or  
42 repair. The written repair estimate shall include the following items:

43 (1) The name, address and telephone number of the motor vehicle

, or tire purchases and tire repair work

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SENATE TRANSPORTATION & TOURISM

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1 repair shop;

2 (2) the name, address and telephone number of the consumer;

3 (3) the date and time of the written repair estimate;

4 (4) the year, make, model, odometer reading and license plate number of the motor vehicle;

5 (5) a general description of the consumer's problem or request for repair work or service relating to the motor vehicle;

or vehicle identification number

6 (6) the estimated charge for repair work or the charge for performing diagnostic work if a repair price estimate cannot be predetermined;

7 (7) the charge for making a repair price estimate;

8 (8) the name and telephone number of another person who may authorize repair work, if the consumer desires to designate such person;

9 (9) a statement indicating what, if anything, is guaranteed in connection with the repair work and the time and mileage period for which the guarantee is effective;

10 (10) a statement allowing the consumer to indicate whether replaced parts should be saved for inspection or return, until the motor vehicle is delivered to the consumer;

subject to the provisions of paragraph (5) of subsection (g),

11 (11) a statement indicating the daily charge for storing the consumer's motor vehicle after the consumer has been notified that the repair work has been completed. However, no storage charges shall accrue or be due and payable for a period of three working days from the date of such notification.

12 (c) If the charge for repair work will exceed \$150, the motor vehicle repair shop shall present to the consumer a written notice conspicuously disclosing in a separate, blocked section, only the following statement, in capital letters of at least 10-point boldface type:

13 PLEASE READ CAREFULLY, CHECK ONE OF THE STATEMENTS BELOW, AND SIGN:

14 I UNDERSTAND THAT, UNLESS WAIVED BELOW, UNDER STATE LAW I AM ENTITLED TO A WRITTEN ESTIMATE IF MY FINAL BILL WILL EXCEED \$150.

15 \_\_\_\_\_ I REQUEST A WRITTEN ESTIMATE

16 \_\_\_\_\_ I DO NOT REQUEST A WRITTEN ESTIMATE AS LONG AS THE REPAIR CHARGES DO NOT EXCEED \$\_\_\_\_\_ THE SHOP MAY NOT EXCEED THIS AMOUNT WITHOUT MY WRITTEN OR ORAL APPROVAL.

17 \_\_\_\_\_ I DO NOT REQUEST A WRITTEN ESTIMATE.

18 SIGNED \_\_\_\_\_

19 DATE \_\_\_\_\_

\_\_\_\_\_ I DO NOT REQUEST A WRITTEN ESTIMATE FOR ANY REPAIR WORK PERFORMED AT MY REQUEST FOR A PERIOD OF ONE YEAR FROM THE DATE INDICATED BELOW.

20 (d) The information required by paragraphs (6) and (7) of subsection (b) need not be provided if the consumer waives in writing such consumer's right to receive a written estimate.

21 (e) Except as provided in subsection (f), a copy of the written repair estimate required by subsection (b) and the disclosure statement required

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1 by subsection (c) shall be given to the consumer before repair work is  
2 begun.

3 (f) If the consumer leaves such consumer's motor vehicle at a motor  
4 vehicle repair shop during hours when the shop is not open or if the  
5 consumer permits the shop or another person to deliver the motor vehicle  
6 to a motor vehicle repair shop, there shall be an implied ~~partial~~ waiver of  
7 the written estimate; except that, upon completion of diagnostic work  
8 necessary to estimate the charge for repair, the motor vehicle repair shop  
9 shall promptly notify the consumer as required in subsection (g).

OR the completion of the estimate for the charge  
for repair

10 (g) (1) In the event that:

11 (A) The written repair estimate contains only an estimate for diag-  
12 nostic work necessary to estimate the charges for repair work and such  
13 diagnostic work has been completed;

14 (B) a determination is made by a motor vehicle repair shop that the  
15 actual charges for the repair work will exceed the written estimate by  
16 more than 10%; or

or estimated charge for repair work

17 (C) an implied ~~partial~~ waiver exists for diagnostic work, as described in  
18 subsection (f), and such diagnostic work has been completed, ~~the con-~~  
19 ~~sumer shall be promptly notified by telephone, telegraph, mail or other~~  
20 ~~means of the additional repair work and estimated charges thereof. A~~  
21 ~~consumer so notified shall, orally or in writing, authorize, modify or cancel~~  
22 ~~the order for repair.~~

the consumer shall be promptly notified by  
telephone, telegraph, mail or other means of the  
additional repair work and estimated charges  
thereof. A consumer so notified shall, orally or  
in writing, authorize, modify or cancel the order  
for repair.

23 (2) If additional repair work or charges are authorized by the con-  
24 sumer in accordance with paragraph (1) of subsection (g), the shop shall  
25 legibly note such authorization on the written repair estimate. Such no-  
26 tations shall specify the date and time of authorization and shall also  
27 contain the additional amount of money authorized by the consumer to  
28 be spent on the repairs, the name of the person who received the au-  
29 thorization, the name of the person who made the authorization and a  
30 description of the additional work authorized.

31 (3) If a consumer cancels the order for repair after being advised that  
32 a repair which the consumer has authorized cannot be accomplished  
33 within the previously authorized estimate, the shop shall expeditiously  
34 reassemble the motor vehicle in a condition reasonably similar to the  
35 condition in which it was received unless:

; or

36 (A) The consumer waives reassembly; ~~or~~

37 (B) the reassembled vehicle would be unsafe; ~~or~~

(C) the vehicle or its effected component parts  
is not likely to be restored with reassembly to  
the same level of functioning as when the shop  
received the vehicle, or cannot be restored to  
the same condition as when received without  
performing the repair canceled, or additional  
repairs.

38 After cancellation of the repair order, the shop may charge for the cost  
39 of teardown, the cost of parts and labor to replace items that were de-  
40 stroyed by teardown, and the cost to reassemble the component or the  
41 vehicle.

42 (4) The motor vehicle repair shop shall not charge more than the  
43 written estimate plus 10%, unless the motor vehicle repair shop has ob-

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1 tained authorization to exceed the written estimate in accordance with  
2 paragraph (1) of subsection (g).

3 (5) Upon request made at the time the repair work is authorized by  
4 the consumer, the consumer is entitled to inspect parts removed from  
5 the vehicle or, if the shop has no warranty arrangement or exchange parts  
6 program with a manufacturer, supplier, or distributor, have the parts re-  
7 turned to the consumer.

8 (h) Nothing in this section shall be construed to require a motor ve-  
9 hicle repair shop to give a written estimated price if the motor vehicle  
10 repair shop does not agree to perform the requested repair.

11 (i) Any violation of this section is a deceptive and unconscionable act  
12 or practice under the Kansas consumer protection act.

13 (j) This section shall be a part of and supplemental to the Kansas  
14 consumer protection act.

15 ~~New Sec. 2. (a) For purposes of this section:~~

16 (1) "Actual cash value" means the market value of a motor vehicle as  
17 determined from publications commonly used by the automotive, finan-  
18 cial or insurance industries to establish the retail value of motor vehicles;

19 (2) "motor vehicle" means a motor vehicle with a model year equal  
20 to the then current calendar year or one of the five preceding calender  
21 years and is registered for a gross weight of 16,000 pounds or less;

22 (3) "person" means any individual, firm, corporation, company, part-  
23 nership or other entity; and

24 ~~(4) "salvageable motor vehicle" means a motor vehicle which has  
25 been wrecked, damaged or destroyed to the extent that the total esti-  
26 mated or actual costs of parts and labor to rebuild or reconstruct the  
27 motor vehicle to its preaccident condition exceeds 75% of the actual cash  
28 value of the vehicle.~~

29 (b) No person shall sell, exchange or transfer a motor vehicle without  
30 first disclosing in writing, prior to consummating the sale, exchange or  
31 transfer, the fact that the motor vehicle was previously a ~~salvageable~~ mo-  
32 tor vehicle.

33 (c) It shall not be a violation of this section if the person can dem-  
34 onstrate:

35 (1) The person made a reasonable effort and a reasonable inspection  
36 to discover prior damage to the motor vehicle, but did not discover such  
37 prior damage; and

38 (2) the person did not know or have reason to know the motor vehicle  
39 was previously a ~~salvageable~~ motor vehicle.

40 (d) Any violation of this section is a deceptive act or practice under  
41 the Kansas consumer protection act.

42 (e) This section shall be a part of and supplemental to the Kansas  
43 consumer protection act.

(k) The provisions of this section shall become effective on and after January 1, 1998.

(4) "salvage motor vehicle" means a motor vehicle for which a salvage title, salvage certificate of title, nonhighway certificate of title with a notation that the vehicle has been wrecked or damaged, or a comparable document issued by another state or jurisdiction is the current ownership document.

salvage

salvage

file



1 New Sec. 3. (a) The failure of a manufacturer to comply with the  
 2 requirements of K.S.A. 8-2507, and amendments thereto, shall constitute  
 3 an unconscionable act or practice under the Kansas consumer protection  
 4 act.

5 (b) This section shall be a part of and supplemental to the Kansas  
 6 consumer protection act.

7 Sec. 4. K.S.A. 1996 Supp. 50-645 is hereby amended to read as fol-  
 8 lows: 50-645. (a) As used in this act:

9 (1) "Consumer" means the original purchaser or lessee, other than  
 10 for purposes of resale, of a motor vehicle; and

11 (2) "motor vehicle" means a new motor vehicle which is sold or leased  
 12 in this state, and which is registered for a gross weight of ~~12,000~~ 16,000  
 13 pounds or less, and does not include the customized parts of motor ve-  
 14 hicles which have been added or modified by second stage manufacturers,  
 15 first stage converters or second stage converters as defined in K.S.A. 8-  
 16 2401, and amendments thereto.

17 (b) If a motor vehicle does not conform to all applicable warranties,  
 18 and the consumer reports the nonconformity to the manufacturer, its  
 19 agent or its authorized dealer during the term of any warranties or during  
 20 the period of one year following the date of original delivery of the motor  
 21 vehicle to a consumer, whichever is the earlier date, the manufacturer,  
 22 its agent or its authorized dealer shall make such repairs as are necessary  
 23 to conform the vehicle to such warranties, notwithstanding the fact that  
 24 such repairs are made after the expiration of any such term or such one-  
 25 year period.

26 (c) If the manufacturer, or its agents or authorized dealers, are unable  
 27 to conform the motor vehicle to any applicable warranty after a reasonable  
 28 number of attempts, the manufacturer, *at the consumer's option* shall  
 29 replace the motor vehicle with a comparable motor vehicle under war-  
 30 ranty or accept return of the vehicle from the consumer and refund to  
 31 the consumer the full purchase or lease price including all collateral  
 32 charges, less a reasonable allowance for the consumer's use of the vehicle  
 33 ~~as calculated from the most recent edition of *Your Driving Costs*, pub-~~  
 34 ~~lished by the American automobile association.~~

35 *The reasonable allowance for use shall be calculated as follows:*

$$36 \text{ Reasonable allowance} = \frac{\text{Purchase price} + \text{collateral charges} \times \text{miles driven}}{120,000 \text{ miles}}$$

37  
 38 Refunds shall be made to the consumer, and lienholder if any, as their  
 39 interests may appear. ~~A reasonable allowance for use~~ *The miles driven*  
 40 shall be ~~that amount~~ *those miles* directly attributable to use by the con-  
 41 sumer and any previous consumer prior to the first report of the noncon-  
 42 formity to the manufacturer, agent or dealer ~~and during any subsequent~~  
 43 ~~period when the vehicle is not out of service by reason of repair.~~ It shall



1 be an affirmative defense to any claim under this act that:

2 (1) An alleged nonconformity does not substantially impair such use  
3 and value; or

4 (2) a nonconformity is the result of abuse, neglect or unauthorized  
5 modifications or alterations of a motor vehicle by a consumer.

6 (d) If the manufacturer receives actual notice of the nonconformity,  
7 it shall be presumed that a reasonable number of attempts have been  
8 undertaken to conform a motor vehicle to the applicable warranties, if:

9 (1) The same nonconformity which substantially impairs the use and  
10 value of the motor vehicle to the consumer has been subject to repair  
11 four or more times by the manufacturer or its agents or authorized dealers  
12 within the term of any warranty or during the period of one year following  
13 the date of original delivery of the motor vehicle to a consumer, whichever  
14 is the earlier date, but such nonconformity continues to exist;

15 (2) the vehicle is out of service by reason of repair for a cumulative  
16 total of 30 or more calendar days during such term or period, whichever  
17 is the earlier date; or

18 (3) there have been 10 or more attempts to repair any nonconform-  
19 ities which substantially impair the use and value of the motor vehicle to  
20 the consumer and such attempts to repair have been attempts by the  
21 manufacturer or its agents or authorized dealers.

22 The term of any warranty, such one-year period and such thirty-day  
23 period shall be extended by any period of time during which repair serv-  
24 ices are not available to the consumer because of war, invasion, strike,  
25 fire, flood or other natural disaster.

26 (e) If a manufacturer has established an informal dispute settlement  
27 procedure which complies in all respects with the provisions of title 16,  
28 code of federal regulations, part 703, as from time to time amended, the  
29 provisions of subsection (c) concerning refunds or replacement shall not  
30 apply to any consumer who has not first resorted to such procedure.

31 (f) ~~The attorney general shall have jurisdiction to enforce this section~~  
32 *Any violation of this section by a manufacturer is an unconscionable act*  
33 *or practice under the Kansas consumer protection act.*

34 (g) *This section shall be part of and supplemental to the Kansas con-*  
35 *sumer protection act.*

36 Sec. 5. K.S.A. 50-651 is hereby amended to read as follows: 50-651.

37 (a) The commission of any act or practice declared to be a violation of  
38 K.S.A. 21-3757 or K.S.A. 50-653, *and amendments thereto*, shall make  
39 the violator liable to the aggrieved consumer, or to the state, for the  
40 *following:*

41 (1) Payment of a civil penalty, recoverable in an individual action or  
42 in an action brought by the attorney general in a sum set by the court of  
43 not more than ~~\$2,000~~ *\$10,000* per violation; *and*

for violations of K.S.A. 21-3757, and amendments thereto, and not more than \$5,000 per violation for violations of the disclosure provisions of K.S.A. 50-653, and amendments thereto

36

1 (2) *reasonable expenses and investigation fees incurred by the attor-*  
2 *ney general.*

3 (b) The remedies provided in subsection (a) are in addition to any  
4 remedies available under federal odometer law.

5 Sec. 6. K.S.A. 50-651 and K.S.A. 1996 Supp. 50-645 are hereby re-  
6 pealed.

7 Sec. 7. This act shall take effect and be in force from and after its  
8 publication in the statute book.

3-7

(g) (1) The consumer shall be promptly notified by telephone, telegraph, mail or other means of any additional repair work and the estimated charges for such work if:

(A) The written repair estimate contains only an estimate for diagnostic work necessary to estimate the charges for repair work and such diagnostic work has been completed;

(B) a determination is made by a motor vehicle repair shop that the actual charges for the repair work will exceed the written estimate by more than 10%; or

(C) an implied waiver exists for diagnostic work or estimated charge for repair work, as described in subsection (f), and such diagnostic work has been completed.

A consumer notified in accordance with this paragraph, orally or in writing, shall authorize, modify or cancel the order for repair.

# SENATE BILL No. 278

By Committee on Energy and Natural Resources

2-11

9 AN ACT designating Prairie Spirit Rail Trail as part of state park system;  
10 amending K.S.A. 32-837 and repealing the existing section.

11

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

13 Section 1. K.S.A. 32-837 is hereby amended to read as follows: 32-

14 837. (a) The following parks have been designated as a part of the state  
15 park system: (1) Kanopolis-Mushroom Rock state park in Ellsworth  
16 county; (2) Toronto state park in Woodson county; (3) Fall River state  
17 park in Greenwood county; (4) Cedar Bluff state park in Trego county;  
18 (5) Tuttle Creek state park in Pottawatomie and Riley counties; (6) Po-  
19 mona state park in Osage county; (7) Cheney state park in Kingman and  
20 Reno counties; (8) Lake Crawford state park in Crawford county; (9)  
21 Lovewell state park in Jewell county; (10) Lake Meade state park in  
22 Meade county; (11) Prairie Dog state park in Norton county; (12) Webster  
23 state park in Rooks county; (13) Wilson state park in Russell county; (14)  
24 Milford state park in Geary county; (15) Lake Scott state park in Scott  
25 county; (16) Elk City state park in Montgomery county; (17) Perry state  
26 park in Jefferson county; (18) Glen Elder state park in Mitchell county;  
27 (19) El Dorado state park in Butler county; (20) Eisenhower state park  
28 in Osage county; (21) Clinton state park in Douglas and Shawnee coun-  
29 ties; (22) Sand Hills state park in Reno county; and (23) Hillsdale state  
30 park in Miami county; and (24) ~~Prairie Spirit Rail Trail in Allen, Anderson~~  
31 ~~and Franklin counties.~~

32 (b) No state park named in subsection (a) shall be removed from the  
33 state park system without legislative approval.

34 ~~Sec. [2.] K.S.A. 32-837 is hereby repealed.~~

35 ~~Sec. [3.] This act shall take effect and be in force from and after its~~  
36 ~~publication in the [statute book].~~

subject to the provisions of section 2,

New Sec. 2.

3.

4.

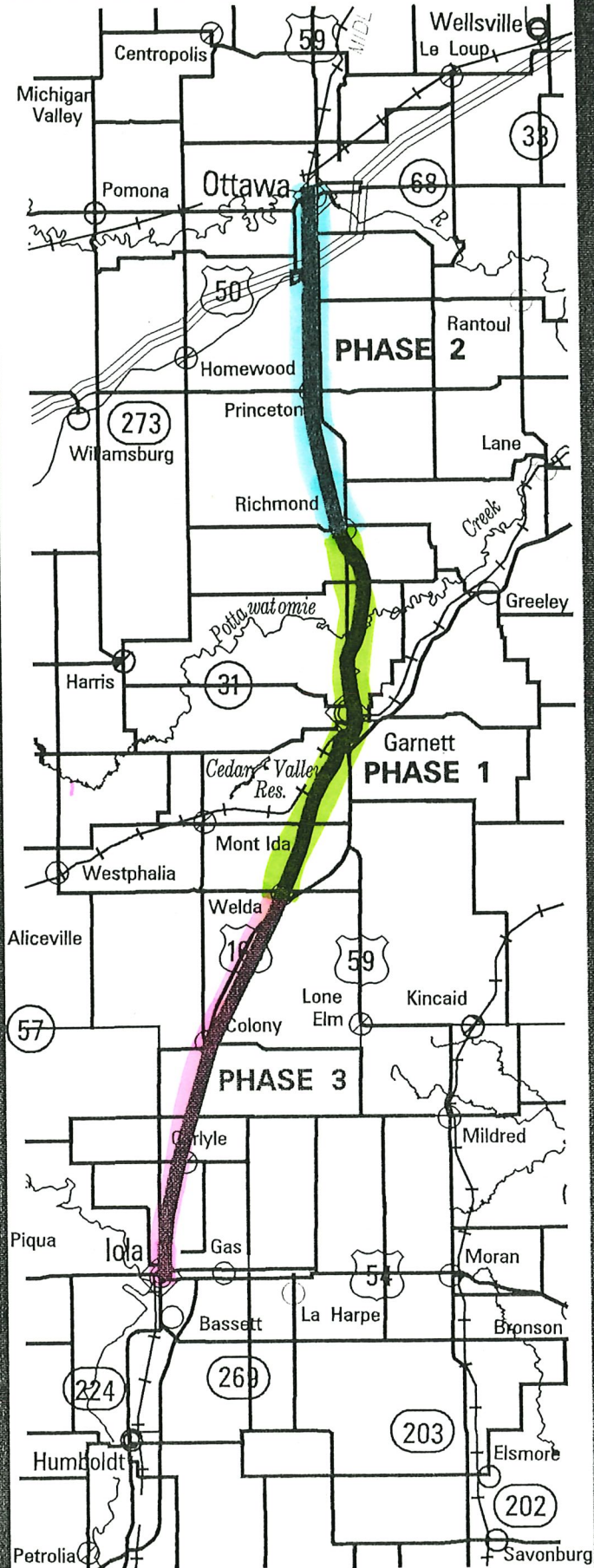
Kansas Register

New Sec. 2.

(a) No trail established or proposed to be established under the provisions of 16 U.S.C. 1247(d), shall be designated as part of the state park system without the department of wildlife and parks first securing the written consent of the owners of any servient estate in the land included within the railroad right-of-way which is to be included as part of such trail.

(b) The department of wildlife and parks may negotiate with the owners of any servient estate to acquire such owners' reversionary interest in the land included within the railroad right-of-way. Any acquisition under this subsection shall be subject to appraisal in accordance with K.S.A. 75-3043a, and amendments thereto.

# PROJECT LOCATION MAP



## PRAIRIE SPIRIT TRAIL PHASE II