

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Les Donovan at 8:30 A.M. on February 15, 2005 in Room 527-S of the Capitol.

All members were present except:  
Anthony Hensley- excused

Committee staff present:  
Hank Avila, Kansas Legislative Research Department  
Bruce Kinzie, Revisors of Statutes  
Maggie Breen, Committee Secretary

Conferees appearing before the committee:  
Deann Williams, Kansas Motor Carriers Association  
Sally Howard, Chief Counsel, KDOT  
Ron Sellers, Luminous Signs  
Bart Thomas, Thomas Outdoor Advertising  
Bob Fessler, Lamar Advertising  
Matt Zielsdorf, Lamar Signs  
John Lay, George Lay Signs

Others attending:  
See attached list.

**SB 252 - Dealer tags, transporting trailers**

Proponent:

Deann Williams, Director of Industry Relations, Kansas Motor Carriers Association, representing 1200 member companies, testified in support of **SB 252** relating to dealer license plates. The bill was requested by a member who is having a problem with transporting the trailers they manufacture. Often trailers are purchased three or four at a time. Currently, you can only haul 2 tons on a dealer tag. Thus, they can't legally transport anything on the flatbed trailers they manufacture. And, if they were to license one of the trailers, it would become a used vehicle and lose value when sold. Section D would authorize a manufacturer to transport up to four trailers, as long as they continue to comply with the size, weight, and safety regulations we now have. (Attachment 1)

Senator O'Connor moved to pass the bill out favorably. Representative Wilson seconded the bill. Motion carried.

**SB 253 - Highway advertising control act of 1972, amendments**

Proponent:

Sally Howard, Chief Counsel, KDOT, advocated **SB 253** which is a substantial overhaul of the Outdoor Advertising Act adopted in 1972. The department met with the "Big 10" sign owners because there is no lobbying group or organizing group to meet with. Two-thirds of the licensees own only one or two signs and they're scattered throughout the state so were much more difficult to contact. They were sent a notice with an overview of the changes and they were referred to the proposed legislation that was posted on the web. They received about 35-40 calls from these efforts. The most substantial change in the bill is that sign owners will be required to get a permit from KDOT prior to erecting a sign. KDOT is required by federal law to enforce the Lady Bird Johnson Highway Beautification Act. If they don't, the Federal Highway Administration is authorized to take federal highway dollars from them. She doesn't think there is much opposition to this change. The other change is that they are now finally enacting a regulatory fee that is commensurate with the expense of administering the program. The current fee system is such that they charge \$5 for an application for a sign permit and \$10 per county in which you have a sign. It isn't tied to the number of signs at all. The bill proposes a tiering system because they believe it to be most equitable. The thought was that the bigger the sign, the more income generated. The fee would be more proportionate to the money raised off the sign. The numbers in the bill represent a compromise with the "Big 10." The numbers are divisible by twelve to make the fee more easily passed on to the advertiser. What was not done,

## CONTINUATION SHEET

MINUTES OF THE Senate Transportation Committee at 8:30 A.M. on February 15, 2005 in Room 527-S of the Capitol.

that was requested by the "Big 10," was a three tiered system. KDOT is proposing a four tiered system and a higher application fee. She thinks there might be a difference in perspective from the larger sign company and the one or two sign company. Another significant area where agreement wasn't reached is in clarifying the confusion of where signs can be located. Things can get really blurry in areas that don't have comprehensive zoning. There are also some technical changes in the bill. ([Attachment 2](#))

### Opponents:

Ron Sellers, Luminous Signs, Hutchinson, who isn't sure if he is a member of the "Big 10," spoke against **SB 253**. He stated that one big problem is the fact that we've had an Act since 1972, about the time he started in the industry, and there are parts of this Act that he still doesn't have a good comprehension of today. On January 10, they found out that KDOT wanted to change the legislation. They met on January 18 and were told they need to keep this thing moving. It was the industry's point, at that time, that if they did want to change the Act, why didn't they start in June or July? On February 4, the group got back to KDOT and were advised that the bill had already been filed and some of his groups' suggestions would be included. And some were. Ron agrees that there is some updating that need to be done with the Act. He is very agreeable to some changes and would welcome the chance to continue to communicated back and forth. The Act, in his opinion, is very, very, complicated legislation. There are three areas his company is very concerned about. They don't understand why the bigger sign companies need to pay more than their share of the load. The proposed definition of "UNZONED COMMERCIAL" is too restrictive. And the proposed legislation allows KDOT too much power to go onto "PRIVATE LAND" to correct a violation. Due process and proper notification should not be eliminated. Many of the sign owners believe that if KDOT had come to them earlier than January 10, a bill could have been introduced that would have joint support of KDOT and the industry. ([Attachment 3](#))

Bart Thomas, Thomas Outdoor Advertising, Inc., Manhattan, stated his company is Kansas based and has been in business since 1941. They currently have 10 full time employees and do business in over 40 counties in Kansas. They pay annual taxes to cities and counties and all of the license fees required. They are also partners with agricultural landowners across the state. Over 50% of his company's income is "imported" from out of state. Each year, over the last 15 years, land rents have increased averaging 5-15%. With regards to current Kansas licensing fees, **SB 253** would be at least a 500% increase. His company also feels that two weeks notice is not adequate time to respond. ([Attachment 4](#))

Bob Fessler, Lamar Advertising, Kansas City, spoke against **SB 253** as it currently stands. The main reason for speaking against it is the speed with which it was put together. He thought they were making great headway yet were still in the resolving differences stage. They were asked to come back for a meeting and when they got there were suddenly told that the bill had been filed and amendments could be done later. He has much frustration as he has done several of these in different states for Lamar and he feels, that given the opportunity, they can reach some kind of agreement with KDOT to move forward. There are too many restrictions in where signs can be placed and the cost for the initial and renewal permit seem to be reversed as to the cost to regulate them. On conforming signs, they want to control cut-outs and extensions. He still firmly believes, that if they were given until next year, a good plan could be worked out. ([Attachment 5](#))

Matt Zielsdorf, Lamar Signs, General Manager, Topeka Division, has about 600 billboards that will be affected by the bill. He very much agrees that the time was too short. He agrees with the other conferees and would like to add an additional concern. A lot of the inventory he has is in Western Kansas where there are grand-fathered wooden pole signs. He would like to propose including the addition of natural disaster relief, where if there is extreme weather that destroys some of these signs, they would be able to rebuild with like materials. ([Attachment 6](#))

### Neutral

John Lay, President of George Lay Signs Inc., Wichita, a business his father started about 50 years ago. He operates 350 billboards in 48 Kansas counties that will be affected by **SB 253**. For years he's known of a lot of abuses that have occurred under the statutes. He knows that KDOT is wanting stronger wording in the statutes to eliminate those abuses. He wholeheartedly supports that. But KDOT is going too far in several

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parts of the bill. When he's told that he has an expense that is going to jump from \$250 to \$15,000 a year it sinks in and get his attention very quickly. He, like many other people, is willing to pay his fair share but doesn't think that what's been set forth is a fair way to split up the fees. If the intent is to shift to a fee-for-service environment, the ongoing fees are too high, the bottom tier should be eliminated, and the new fee permit fee should be raised, as that's where the majority of staff time will be spent. They have come to agreement with KDOT on a lot of issues but there are others where they haven't. If it is the will of the committee to go forth with the bill, he will work with them. But his preference would be to have the committee hold the bill over until next year to provide adequate time to bring back a bill everyone can support. (Attachment 7)

The meeting adjourned at 9:30 a.m.

The next meeting is scheduled for February 22.





# KANSAS MOTOR CARRIERS ASSOCIATION

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Executive Director

## LEGISLATIVE TESTIMONY

before the

### SENATE TRANSPORTATION COMMITTEE

Senator Les Donovan, Chairman

Tuesday, February 15, 2005

State Capitol – Topeka, Kansas

#### MR. CHAIRMAN AND MEMBERS OF THE SENATE TRANSPORTATION COMMITTEE:

I am Deann Williams, director of industry relations of the Kansas Motor Carriers Association. I appear here this morning representing our 1200 member companies in support of Senate Bill No. 252 which relates to dealer license plates.

The request of this bill is on behalf of one of our members from Great Bend that manufactures flatbed trailers. Often trailers are purchased three or four at a time, so delivery becomes very time consuming and costly. If this manufacturer were to license one of the trailers, and then use it to deliver the other trailers, it would be considered a used vehicle and when sold the value would be much less.

By amending 8-136 and adding section (d) this would authorize a licensed dealer or manufacture to transport up to four trailers as long as they continue to comply with the size, weight and safety statues we currently have in chapter 8, article 19.

KMCA supports SB 252 and asks your favorable consideration on this bill. I would be pleased to answer any questions you may have.





# KANSAS

DEPARTMENT OF TRANSPORTATION  
DEB MILLER, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

## TESTIMONY BEFORE THE SENATE TRANSPORTATION COMMITTEE

### REGARDING SENATE BILL 253 RELATING TO THE HIGHWAY ADVERTISING CONTROL ACT OF 1972

FEBRAURY 15, 2005

Mr. Chairman and Committee Members:

Good morning. I'm Sally Howard, Chief Counsel for the Kansas Department of Transportation (KDOT). I appreciate the opportunity to testify on Senate Bill 253, which substantially modifies the Highway Advertising Control Act of 1971, K.S.A. § 68-2231, et seq..

The Kansas Department of Transportation is charged with enforcing the federal Highway Beautification Act of 1965, commonly known as the Lady Bird Johnson Act. The Highway Beautification Act was enacted to control the placement of billboards along the nation's highways. Enacted to preserve this great country's scenic beauty, the Act recognizes that outdoor advertising is a legitimate, commercial use of private property adjacent to the highway, but that the erection and maintenance of advertising signs along the highways should be regulated. KDOT is required to enforce the Highway Beautification Act, and the Federal Highway Administration is authorized to withhold federal highway dollars if KDOT fails to enforce the Act.

Kansas initially adopted the Highway Advertising Control Act in 1972, and has not substantively reviewed the legislation since that time. With only a few exceptions, KDOT and the industry it regulates reached agreement on the revisions being proposed by Senate Bill 253.

Perhaps the biggest change being proposed is that sign owners will be required to obtain a permit prior to erecting a sign. Currently, no such requirement exists. This change will allow KDOT to more effectively monitor the signs that are placed along our highway system.

The next significant change occurs in the application and renewal fees that are charged to sign owners. Currently KDOT charges an application fee of \$5.00. We are proposing an application fee of \$60 for official and directional signs. We are also proposing an application fee of \$100 for traditional off premise advertising signs. Our records reflect that KDOT typically processes 40 applications for official signs and 29 applications for legal conforming signs, and so we anticipate that we will generate approximately \$5,300 in revenues from the increase in our application fees.

We also propose an increase in the renewal fees. Currently, KDOT charges a renewal fee of \$10 in each county in which the licensee operates, regardless of the number of signs in that county. The maximum fee that a licensee currently pays is \$250. The current fees charged under the Act raise approximately \$11,800.

KDOT developed a tiered structure when setting permit renewal fees. We propose the following renewal fees:

<u>Fee</u>	<u>Per sign display area</u>
\$12	32 square feet or less
\$48	33- 150 square feet
\$96	151 – 300 square feet
\$144	Larger than 300 square feet

We believe the proposed fees will generate approximately \$239,700 in revenues.

Finally, to minimize the impact of the new fees, we propose that the new fees be phased in over a two year period. Permits issued prior to June 30, 2007 will be at 50% of the total fee. After June 30, 2007 full rates will go into effect.

KDOT views the other provisions of Senate Bill 253 as clarifying existing practice. K.S.A. § 68-2234 has been modified to clarify when signs will be allowed in unzoned commercial or industrial areas.

We also have modified K.S.A. §68-2234, such that signs may only be placed on the side of the highway where commercial activity is located. Currently, our statutes allow signs to be placed on both sides of the highway where commercial activity is located. However, in many instances we find that there is a commercial activity on one side of the highway and undisturbed agricultural land on the other side. The outdoor advertising sign is out of place in the agricultural setting, and can destroy the scenic vista that would otherwise exist.

We have made a number of other changes that were needed because of the advancement of technology. KDOT has worked with the industry and completed an in-depth study of regulator costs as well as surveyed other states before setting our proposed fees. We have not received any objections from the industry with respect to these changes, and therefore have not addressed them specifically in our testimony.

Thank you Mr. Chairman. I would be happy to answer any questions.

February 15, 2005

Senate Bill 253

Mr. Chairman, Senators of the Committee:

I am Ron Sellers of Luminous Neon, based in Hutchinson with offices in Dodge City, Salina, Topeka, Lawrence and Olathe. My company owns and operates many outdoor advertising structures which will be affected by the proposed legislation.

The outdoor advertising businesses of Kansas are not supportive of Senate Bill 253 in its present form. Although we support many of the provisions in this bill, we were unable to reach a consensus with Ms. Sally Howard, Chief Counsel, and other KDOT staff on several provisions.

While the Kansas outdoor act has not been amended since 1972, our industry was surprised when we received a letter from KDOT dated January 10, 2005, suggesting that this legislation needed amended and that they would most probably introduce legislation this year. Approximately 15 members of the industry met with KDOT January 18<sup>th</sup>. At that time, the changes were explained and it was suggested that time was critical, but they could give us 2 weeks to get back to them with areas of agreement and disagreement.

A group then met with KDOT on Friday, February 4<sup>th</sup> discussing areas of agreement and areas that we still needed to be addressed. At that meeting, we were advised that KDOT's bill had already been given to REVISER OF STATUTES, for introduction, and that several of our suggested revisions would be included.

The bill you have before you today, has some of the industry's compromises, but KDOT rejected input from the industry in at least three very important areas. I would like to mention these, but will not go into details unless you have questions.

1. If one of the big reasons, is to raise income for KDOT, then small signs need to pay a larger BI-annual license, as there is no way KDOT can even process permits, much less carry out a regulatory function for small signs for \$6.00 per year. All sign owners should share in cost of this program, not just the larger outdoor companies. In our opinion, if the regulatory duty is the same for small and large signs, we believe that one sign should not be charged 12 times the fee of another.
2. The proposed definition of "UNZONED COMMERCIAL" is too restrictive, and will make it almost impossible to install new signs in the more rural areas of the state. We feel that this area can be strengthened, but the proposed bill goes too far toward sign prohibition.
3. The proposed legislation allows KDOT too much power to go onto "PRIVATE LAND", to correct violations of the law. Due process of the law and proper notification of property owners should not be eliminated.

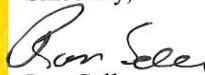
In addition to these 3 areas, there is some technical wording that needs to be addressed for clarification purposes.

The above areas can be negotiated with KDOT, and should be, but until then, the INDUSTRY does not support Senate Bill 253 in its present form.

**Many of us believe that if KDOT would have come to the industry earlier than January 10, 2005, say, last fall, a bill could have been introduced that would have joint support from KDOT and INDUSTRY. We still believe that KDOT gave us such short notice, such that private input would be minimized. That is too bad for good government and good legislation.**

Until the above areas are modified to be workable and fair in Kansas, we suggest this bill not be advanced. Thank you for your time, and I will gladly answer any committee questions.

Sincerely,



Ron Sellers  
Executive Vice President

SENATE TRANSPORTATION  
2-15-05  
ATTACHMENT 3

  
**LUMINOUS Neon Inc**  
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# *Thomas Outdoor Advertising, Inc.*

1508 Fair Lane • Manhattan, KS 66502 • (785) 537-2010 • Fax (785) 537-0016

2/14/2005

Kansas Senate Transportation Committee

Re: Bill 253

Senate Transportation Committee Senators:

My name is Bart Thomas of Thomas Outdoor Advertising, Inc., located in Manhattan, Kansas. A brief summary of our company is we are Kansas based since 1941, currently employing (10) full time employees. Our company currently does business in over (40) counties in Kansas. Some of the costs and benefits of our company is that we pay annual taxes to cities and counties and the license fees they require. Also we are "Partners" with agricultural land owners across the state, many in which are already financially burdened. Over (50%) of our company's income is "Imported" from out of state.

Each year land rents have increased averaging (5 – 15%) for the last (15) years. With regard to our current Kansas licensing fees, the proposed #253 Bill would be at least a (500%) increase. We also feel that (2) weeks notice regarding the proposed legislation is not adequate time for land owners, agencies, city and county government, and sign owners to respond. This #253 Bill far exceeds the Federal mandates already in place.

Sincerely,

Bart Thomas  
Owner  
Thomas Outdoor Advertising, Inc.

Mr. Chairman & Senators of the committee:

I am Bob Fessler VP & GM of Lamar Advertising of Kansas City. I am here to speak in opposition to Senate Bill 253 in it's current form.

The Kansas Outdoor Advertising Industry was contacted via mail on January 10<sup>th</sup> and asked to attend a meeting with KDOT and its legal council. We spent several hours looking over KDOT's proposal and they asked to make comments within two weeks. We scheduled a follow-up meeting for February 4<sup>th</sup> to review proposed changes and to come to a mutual understanding. When we arrived at the meeting we were told that the bill had to be filed because a filing deadline.

We as an Industry understand that current statutes are some 27 years old. We are willing to move forward with the state to come up with a good comprehensive plan that benefit the State and the Outdoor Industry.

We at this time cannot in good faith support the KDOT legislation because of several areas of concern

I will list those areas and not elaborate to much but will be happy to answer any questions in detail.

- 1) New Unzoned Commercial Restrictions make it almost impossible to build new signs.
- 2) New fee structure for new and renewal permits . This was done to offset internal costs of doing this work however, the fees on new permit applications are skewed higher for larger companies.
- 3) KDOT is proposing new language to control cut-outs and extensions on conforming signs. They will only allow 20 sq. ft. This is extremely restrictive for conforming structures.

Most of us in our Industry wonder why this was not addressed 6-8 months ago when both parties could work together on a fair and equitable bill to present to you all.

. I ask you to defer this bill to next year when we can present a joint bill that both parties can live with.

I appreciate the time you have given me and would be happy to answer any questions.

Bob Fessler  
VP & GM Lamar Advertising



Lamar of Topeka

Mr. Chairman and Senators of the committee,

I am Matt Zielsdorf, VP and GM of Lamar Advertising of Topeka. I am here to speak in opposition to the Senate Bill 253 in its current form.

I currently operate just under 600 billboards that are licensed with Kansas Department of Transportation and will be affected by the proposed Senate Bill 253. I first received my notification from the Kansas Department of Transportation on January 10, 2005 of the proposed changes to the current Kansas Highway Advertising Control Act. Thirty-six days later I am standing before you in opposition of the Senate Bill 253 because this Bill has not gone through due process.

Despite having two meetings with the Kansas Department of Transportation, the meetings did not provide adequate time to thoroughly exchange ideas and address the issues of this 27 year old Act.

Although I believe the Industry has come together in agreement on certain issues with the Kansas Department of Transportation, I fear that we are rushing this through the process before we can truly grasp the affects it will have on our business and the businesses we serve.

Below are a few of my areas of concern.

- 1.) Excessive Un-zoned Commercial restrictions.
- 2.) Excessive Cut-Out restrictions on conforming signs.
- 3.) The effort required in verifying and approving a new permit is not reflected in the expense of a new sign permit fee even though the permit fees were structured to defray cost of Administrating this Act.
- 4.) Absence of any language regarding natural disasters and the ability to rebuild non-conforming signs to its original size, height & lighting using like materials.

It is with these concerns that I request to you that this Bill be held over to next year so that a Bill that is equally supported by the Industry and the Kansas Department of Transportation can be presented to you.

Matt Zielsdorf  
VP and GM Lamar of Topeka

# George Lay **Signs** Inc.

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Senator Leslie Donovan Sr.  
Senator Phillip Journey  
Senator Anthony Hensley  
Senator Mark Gilstrap  
Senator Kay O'Connor  
Senator Peggy Palmer  
Senator Mike Petersen  
Senator Vicki Schmidt

February 15, 2005

Mr. Chairman and Senators of the Transportation committee,

My name is John Lay, and I am President of George Lay Signs Inc in Wichita. My company operates 350 billboards in 48 Kansas counties that will be effected by Senate Bill 253. For years. I have known of abuses that have happened under the current billboard statutes. KDOT wants to provide stronger wording in the Statutes to limit these abuses, which I wholeheartedly support. But, I believe that KDOT is going too far in several parts of this bill.

As with any business person, when someone announces that an expense is going from \$250 to \$15,000 per year, it tends to get my attention very quickly. I realize that the fees we have been paying don't fully offset the costs of the State's billboard regulatory function. I am willing to pay a fair portion, but I have not agreed with Ms. Howard on what that fair portion should be. If the intent is to shift to a fee-for-service environment, the fee structure in SB 253 does not accomplish it in a fair, equitable manner.

During the last month, my life has been a blur, trying to continue running my business, and work toward compromises on this legislation. We have come to agreement with KDOT on most issues, but we are still apart on others. We need to consider how the rules effect I-70 in Kansas City, as well as highway 56 at Hugoton. But after each meeting, we continue to find details that have not been addressed. My fear is that in the rush to get something to the legislature this year, we will fail to address issues important to our industry, and the businesses we serve. I also fear that our industry will get short-changed by a legislative session that has a very full plate already.

If it is the will of this committee to work SB 253 during this session, I will be anxious to work with you and KDOT. My preference though would be to have your committee hold the bill over until next year to provide adequate time for us to negotiate with KDOT and bring back a bill that we can all support. Thank you for your time and attention.

John Lay, President  
George Lay Signs Inc.