

MINUTES OF THE HOUSE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Gary Hayzlett at 1:30 P.M. on March 8, 2006 in Room 519-S of the Capitol.

All members were present except:

Representative Virginia Beamer- excused

Committee staff present:

Hank Avila, Kansas Legislative Research

Bruce Kinzie, Revisor of Statutes Office

Betty Boaz, Committee Secretary

Conferees appearing before the committee:

Marcy Ralston, Chief, Driver Control Bureau

Senator Laura Kelly

Representative Mike Burgess

Deb Miller, Secretary, KS Department of Transportation

Lt. John Eichkorn, KS Highway Patrol

Others attending:

See attached list.

Chairman Hayzlett started the meeting by opening **SB 371**.

**SB 371 - Commercial Driver's Licenses, providing penalties, notification**

The Chairman recognized Marcy Ralston, Chief, Driver Review Division as the first proponent for **SB 371**. (Attachment #1) Ms. Ralston said that **SB 371** concerns commercial drivers' licenses and addresses several amendments that will bring Kansas into compliance with the Federal Motor Carrier Safety Improvement Act. She said it includes a change to the Kansas definition of hazardous materials to match the federal definition.

There were no other proponents and no opponents. Chairman Hayzlett closed the hearing on **SB 371** and opened the hearing on **SB 411**.

**SB 411 - Traffic regulations, duty of driver approaching highway construction vehicles**

The first proponent was Representative Mike Burgess. (Attachment #2) According to Representative Burgess, **SB 411** is an important step towards improving the safety of highway workers across the state. He said this bill requires drivers, when approaching stationary highway vehicles displaying flashing lights, to change lanes into a lane that is not adjacent to the highway vehicle when it is safe to do so or if not, to reduce their speed. He said this measure would be similar to the requirement for emergency vehicles.

The next proponent was Deb Miller, Secretary of the Kansas Department of Transportation. (Attachment #3) Secretary Miller said that in the past year, KDOT had two tragic reminders of the dangers of working alongside highways. She said the employees followed agency safety procedures, however, these accidents indicate that more is needed to improve the safety of the highway workers.

Senator Laura Kelly was the next proponent for **SB 411**. (Attachment #4) Senator Kelly said she requested this bill because of the importance of improving the safety of highway workers throughout the state. She said this bill requires drivers to move away from highway vehicles displaying a flashing light.

The last proponent for **SB 411** was Lt. John Eichkorn, representing the Kansas Highway Patrol. (Attachment #5) Lt. Eichkorn said that during the 2000 Legislative session, the Patrol supported a bill which created provisions requiring drivers to slow down and move away from stationary emergency vehicles displaying flashing lights. He said this bill would create similar requirements for vehicles engaged in highway work, such as KDOT road crews and KHP/KDOT Motor Assist Vehicles.

CONTINUATION SHEET

MINUTES OF THE House Transportation Committee at 1:30 P.M. on March 8, 2006 in Room 519-S of the Capitol.

There were no other proponents and no opponents, after questions, the Chairman closed the hearing on **SB 411**.

It was the Chairman's desire to work HB 2780. Representative Faber made a motion to remove the contents from HB 2780, remove the contents of HB 2513, and insert contents of HB 2780 into HB 2513. This motion was seconded by Representative Olson and the motion carried.

Representative George made a motion to pass Substitute HB 2513, Representative Treaster seconded the motion and the motion carried.

Chairman Hayzlett opened **SB 371** to the Committee for questions, comments or motions. Representative Olson made a motion to favorably pass SB 371 out of Committee, the motion was seconded by Representative Ruiz and the motion carried.

Representative Treaster introduced his pages from Nickerson High School and their Government teacher.

There being no further business before the Committee, the Chairman adjourned the meeting. The next meeting will be March 13, 2006, at 1:30 p.m., in Room 519-S.

# HOUSE TRANSPORTATION COMMITTEE GUEST LIST

DATE: 3-08-06

NAME	REPRESENTING
John Eichkorn	KHP
Josh MacEwan	KHP
Tom Whitaker	RMCA
Ken Gudenkoff	KDOT
Deb Miller	KDOT
Sam Kelly	

**HOUSE TRANSPORTATION COMMITTEE**

**DATE** 3-08-06

<b>NAME</b>	<b>REPRESENTING</b>
James Bartle	Asst. of Revenue
Jim Keller	"
Marcy Balston	KDOR
Diane Albert	KDOR
Carmen Aldritt	"
Star Jones	John Peterson



# K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE  
DIVISION OF VEHICLES

KATHLEEN SEBELIUS, GOVERNOR

**TO:** Chairman Gary Hayzlett  
Members of the House Transportation Committee

**FROM:** Marcy Ralston, Chief, Driver Control Bureau  
Division of Vehicles

**DATE:** March 8, 2006

**SUBJECT:** Senate Bill 371 – Commercial Drivers License Act

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Thank you Mr. Chairman and Committee Members. My name is Marcy Ralston, and I serve as the Chief of the Driver Control Bureau, Division of Vehicles, Department of Revenue.

Senate Bill 371 concerns commercial drivers' licenses and addresses several amendments that will bring Kansas into compliance with the Federal Motor Carrier Safety Improvement Act. It includes a change to the Kansas definition of hazardous materials to match the federal definition. This bill also includes amendments to the notification of conviction and disqualification actions for commercially licensed drivers, and offenses occurring in commercial motor vehicles.

I appreciate the opportunity to speak in support of this bill and I stand for any questions.

House Transportation  
Date: 3-8-06  
Attachment # 1

# STATE OF KANSAS

## HOUSE OF REPRESENTATIVES

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## MIKE BURGESS

Senate Bill 411 is an important step towards improving the safety of highway workers across the state of Kansas. This bill requires drivers when approaching stationary highway vehicles displaying flashing lights to change lanes into a lane that is not adjacent to the highway vehicle when it is safe to do so or if not, to reduce their speed. This measure would be similar to the requirement for emergency vehicles.

In my district we became painfully aware of the need for this legislation on June 1<sup>st</sup> of last year, when we lost a young highway worker, Marvin "Scottie" McDonald III. Scottie was working along U.S. 75 north of Topeka when he was struck and killed. (I've attached a copy of a news story about the accident.)

He and his co-worker had followed the recommended safety procedures, including activating the truck's emergency flashing lights and wearing orange reflective clothing, but that was not enough in this case.

SB411 could help prevent the tragic loss of another highway worker. This bill will require safety measures that should be common sense when approaching any stationary vehicle. Now these common-sense safety measures will be required when approaching stationary highway vehicles with flashing lights.

House Transportation  
Date: 3-8-06  
Attachment # 2

## CJOnline.com / Topeka Capital-Journal

Published Thursday, June 2, 2005

**KDOT worker killed**

Topekan struck while picking up litter beside US-75

**By Erin Adamson**  
*The Capital-Journal*

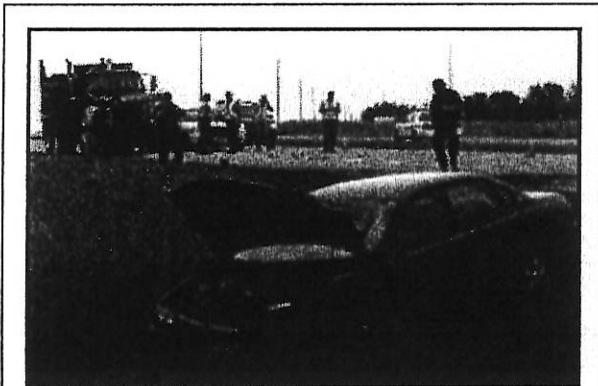
A Kansas Department of Transportation worker picking up trash alongside US-75 highway just south of N.W. 35th Street was struck by a car and killed Wednesday morning.

Marvin Scott McDonald III, 24, of Topeka, was a temporary employee of KDOT who began working as an equipment operator at the Area Four office in Topeka in December, said KDOT spokesman Joe Blubaugh.

McDonald's grandfather, Marvin McDonald Sr., said Wednesday afternoon that his grandson was a free spirit who was just getting started in life and who loved his job working for KDOT.

"He's going to be very much missed," McDonald said. "He just never knew a stranger."

McDonald said his grandson, whom the family called Scottie, was raised in Topeka and attended Topeka High School.



**Anthony S. Bush/The Capital-Journal**  
A car left the southbound lanes of US-75 highway, clipping a KDOT truck and killing Marvin Scott McDonald III.  
[Click here to check for reprint availability.](#)

Kansas Highway Patrol spokesman Lt. John Eichkorn said authorities were called to a crash in the southbound lanes of US-75 at 8:30 a.m. When troopers arrived, they found that a 2004 Chevrolet Malibu had struck McDonald.

Eichkorn said McDonald was part of a two-person work crew picking up trash along the highway. The men had parked an orange KDOT work truck on the west shoulder of the highway.

Eichkorn said KHP investigators think the driver of the passenger car, Mary R. Fritsch, 74, of Holton, who was driving south on US-75, drove off the highway into the west ditch and struck the work truck on the west side. Her car continued scraping down the side of the

truck, then struck McDonald, who was standing in the grass in front of the truck, Eichkorn said.

The second KDOT worker wasn't injured, Eichkorn said.

"Currently, we don't really know what caused the driver to leave the road," he said.

McDonald was rushed by American Medical Response ambulance to Stormont-Vail Regional Health

Center, where he was pronounced dead, Eichkorn said.

Fritzsch was extricated from her vehicle and taken by ambulance to Stormont-Vail with injuries that weren't considered life-threatening, according to a dispatcher with American Medical Response.

A spokeswoman at Stormont-Vail said Wednesday that the hospital wasn't releasing Fritzsch's condition at the request of her family.

Blubaugh said KDOT would provide counseling for the other workers who witnessed the crash and later gathered at the scene.

"I think it's going to be hard for them," Blubaugh said. "It's going to hit close to home."

Kansas Secretary of Transportation Deb Miller called for a moment of silence for McDonald on Wednesday afternoon as she addressed emergency responders from across the state who were attending an announcement by Gov. Kathleen Sebelius about a statewide communications system.

"We had some pretty sad employees today," Miller said. "We offer our heartfelt condolences to the McDonald family during this difficult time and to the crew that Scott worked with in the Topeka area."

Blubaugh said McDonald and his partner had followed procedure by activating the truck's emergency flashing lights. He said the men were wearing orange reflective clothing designed to catch motorists' attention.

One of the southbound lanes on US-75 was closed for five hours while authorities investigated the crash, Eichkorn said.

The last death of a KDOT worker on the job occurred in November 1997, when an engineering technician was killed in a construction zone south of Salina on Interstate 135. Five KDOT employees were killed at work sites in the 1990s.

**Erin Adamson can be reached at (785) 295-1186 or [erin.adamson@cjonline.com](mailto:erin.adamson@cjonline.com).**



# KANSAS

DEPARTMENT OF TRANSPORTATION  
DEB MILLER, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

## TESTIMONY BEFORE THE HOUSE TRANSPORTATION COMMITTEE

### REGARDING SENATE BILL 411 CONCERNING VEHICLES ENGAGED IN HIGHWAY OPERATIONS

MARCH 8, 2006

Mr. Chairman and Committee Members:

Good afternoon. My name is Deb Miller, Secretary of the Kansas Department of Transportation (KDOT). I appreciate the opportunity to testify on Senate Bill 411.

Senate Bill 411 requires traffic to move away from vehicles displaying a flashing light that are engaged in highway work. Legislation to improve the safety of highway workers throughout the state is very important to KDOT.

In the past year, KDOT had two tragic reminders of the dangers of working alongside highways. On the morning of June 1, 2005, Marvin "Scotty" McDonald III, an equipment operator with KDOT since December 2004, was picking up trash alongside U.S. 75 when he was struck by a car and killed. Exactly two months later, on August 1, 2005, Richard Cunningham, an equipment operator with 15 years of experience, was killed on K-130 highway near Neosho Rapids. Richard and Gary Burroughs were inspecting a culvert when they were pinned beneath their dump truck after it was struck from behind by a semi trailer. Gary was seriously injured, spent nearly two months in the hospital and is still under his doctor's care and unable to return to work. Undoubtedly, these accidents had a huge impact on people's lives.

These employees followed agency safety procedures by activating the emergency flashing lights on the dump truck and wearing orange reflective clothing designed to catch the attention of motorists. However, these accidents indicate that more is needed to improve the safety of the highway workers.

KDOT crews put their lives on the line every day when they are working next to traffic. KDOT supports this important legislation to improve the safety of the working environment of our employees.

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

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House Transportation  
Date: 3-8-06  
Attachment # 3

**LAURA KELLY**  
SENATOR, 18TH DISTRICT  
WABAUNSEE AND SHAWNEE COUNTIES



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS  
RANKING MINORITY: COMMERCE  
MEMBER: WAYS AND MEANS  
JOINT COMMITTEE ON ECONOMIC DEVELOPMENT  
JOINT COMMITTEE ON HEALTH POLICY OVERSIGHT  
JOINT COMMITTEE ON PENSIONS, BENEFITS AND INVESTMENTS  
JOINT COMMITTEE ON CHILDREN'S ISSUES

Testimony on SB411

House Transportation Committee

March 8, 2006

Chairman Hayzlett and Committee members:

Thank you for giving me the opportunity to appear before you today.

I requested Senate Bill 411 because of the importance of improving the safety of highway workers throughout the state. This bill requires drivers to move away from highway vehicles displaying a flashing light similar to the requirement for emergency vehicles.

In my opinion, this legislation is past due. In my district we became painfully aware of the need for this legislation last June, when we lost a young highway worker, Marvin "Scotty" McDonald III. Scotty was working along U.S. 75 north of Topeka when he was struck and killed. The proposed legislation would help to keep other families from experiencing the tragic loss of another highway worker.

As lawmakers, we have a responsibility to pass this common sense legislation to improve the safety of these workers. It is long overdue that traffic be required to move away from these vehicles to enhance the safety of the workers.

I appreciate your time and favorable consideration of SB411.

A handwritten signature in black ink, appearing to read "Laura Kelly". The signature is fluid and cursive, with a large, looping flourish at the end.

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House Transportation  
Date: 3-8-06  
Attachment # 4

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# KANSAS

WILLIAM R. SECK, SUPERINTENDENT

KATHLEEN SEBELIUS, GOVERNOR

KANSAS HIGHWAY PATROL

## Testimony on SB 411 House Transportation Committee

Presented by  
LT John Eichkorn  
Kansas Highway Patrol

March 8, 2006

Good afternoon, Mr. Chairman and members of the committee. My name is LT John Eichkorn and on behalf of Colonel William Seck and the Kansas Highway Patrol, I appear before you today to support Senate Bill 411.

During the 2000 Legislative session, the Patrol actively supported HB2641, which created provisions requiring drivers to slow down and move away from stationary emergency vehicles displaying flashing lights. We are very thankful the Legislature approved the bill and the Governor signed it into law. SB411 would create similar requirements for vehicles engaged in highway work, such as KDOT road crews and KHP/KDOT Motorist Assist Vehicles. The Patrol engaged in educating the public by issuing warnings and producing Public Service Announcements throughout 2000 and early 2001 before issuing citations beginning in July of 2001. KDOT supported our efforts by finding Federal funding to print educational materials for the public and assisting with the PSAs.

KDOT supported us in 2000, and today we stand by KDOT to offer the same support and protection to their personnel. The deaths of two KDOT workers in 2005 demonstrate the need for SB411. Scott McDonald was killed June 1 on US-75 near Topeka, and Richard Cunningham was killed August 1 on K-130 near Emporia. Both men were out of their KDOT vehicles performing their duties when they were struck by vehicles and killed. The Kansas Highway Patrol worked both of these tragic crashes. As a matter of fact, Trooper Josh MacEwan, who worked Scott McDonald's fatality investigation, is here with us today in support of SB 411.

Unfortunately, the Patrol understands the pain of losing a co-worker in the line of duty. Two of the Patrol's ten troopers killed in the line of duty died after being struck by vehicles while they were performing roadside duties. On Dec. 6 1964, Trooper John McMurray was putting equipment into his trunk when his patrol car was rear-ended by a drunk driver. He died of his injuries three days later, leaving behind a wife and young daughter. On Sept. 6, 1995, Master Trooper Dean Goodheart was performing a roadside inspection of a semi-truck on I-70 near Colby. As he walked around the truck, he was struck by a car and killed immediately. Master Trooper Goodheart is survived by a wife and three adult children. In 2000, House Bill 2641 was proposed and known by many as the "Goodheart Law." That law has made a difference in improving officer safety. Between 1995 and 1999, there were 70 crashes in which a Patrol vehicle was struck while legally parked with its lights on and performing roadside duties. Between 2000 and 2004, the number of such crashes dropped to 25.

The Patrol feels other roadside workers should be afforded the same protection while carrying out their job responsibilities. The Kansas Highway Patrol strongly urges this committee to give Senate Bill 411 favorable support. The Patrol appreciates the opportunity to address you today, and I will be happy to answer any questions you may have.

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House Transportation  
Date: 3-8-06  
Attachment # 5