

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Les Donovan at 8:30 A.M. on January 25 in Room 527-S of the Capitol.

All members were present except:
Anthony Hensley- excused

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

Conferees appearing before the committee:
Senator Laura Kelly
Ken Gudenkauf, Kansas Department of Transportation
Senator Janis Lee
Larry Baer, League of Kansas Municipalities

Others attending:
See attached list.

Chairman Donovan opened the hearing on SB 411 - Traffic regulations, duty of driver approaching highway construction vehicles.

Senator Laura Kelly, said that SB 411 is a simple bill but one that really is a matter of life and death. The bill requires vehicles to move over when they approach a highway truck at the side of the road that has flashing lights on. Last June 1st one of her constituents, a 24 year old, was killed on Highway 75 while he was picking up liter along the highway. (Attachment 1)

Chairman Donovan and Senator Palmer said that similar tragedies have occurred in their districts.

Ken Gudenkauf, Legislative Liaison, KDOT, said that, in addition to the loss on June 1st, there was also a death on August 1st near Neosho Rapids on K- 130. They have also been experienced cases of workers being seriously injured while performing their work duties. KDOT workers put their lives on the line every day when they perform their work. It is very important legislation to his department for the safety of their people. He asked for favorable consideration of the bill. (Attachment 2)

Lt. John Eickhorn, Kansas Highway Patrol, said was at the scene of the June 1st accident referred to by Senator Kelly. He said he believed the female drive most likely saw the vehicle ahead of time but was looking down when the tragedy took place. If she had seen the truck and knew the law said for her to move, he thinks maybe she might have been in a position to do so and the tragedy wouldn't have happened. (No handout)

Chairman Donovan closed the hearing on SB 411 and opened the hearing on SB 412 - Motorized toy vehicles, regulation thereof.

Senator Janis Lee, included an article *More Than A Toy* with her testimony. She wanted to distinguish between these and what she deals with in SB 412. The bill addresses toy motorized vehicles, that currently are not legal on streets or sidewalks as they're excluded from the definition of what is legal. She has a couple of business people who bought the small motorized scooters to drive the 4 or 5 block to work and back and found that they cannot do so as they are illegal. Their local government has no ability to make them legal. She has also had cases where parents have bought these for their children and then have had no place to legally drive them except on the grass in their back yards. SB 412 includes the definition of a "motorized toy vehicle" and gives communities local authority to determine if these are legal on their streets and sidewalks or not. She asked that the last 3 lines of the third paragraph of her testimony be crossed out as it contained an error. (Attachment 3)

Carmen Alldritt, Director, Division of Motor Vehicles, DOR, said she applauded Senator Lee for taking up this banner. As Senator Gilstrap, Senator Wilson, and herself she know, it a hot topic and has been for at

CONTINUATION SHEET

MINUTES OF THE Senate Transportation Committee at 8:30 A.M. on January 25 in Room 527-S of the Capitol.

least the last two years. Currently, no one has any authority. This bill gives the locals the authority to make the decision as to whether they want to allow them or not. (No handout)

Lt. John Eickhorn, Kansas Highway Patrol said they do receive, through the Division of Motor Vehicles, a lot of calls. This bill helps better define the issue because law enforcement itself is very confused as to what is legal and what isn't. (No handout)

Chairman Donovan closed the hearing on **SB 412** and opened the bill on **SB 413 - Regulating traffic, allowing certain golf carts.**

Senator Janis Lee, said **SB 413** is also a local option bill. It deals with properly equipped golf carts being driven on city streets. It came about as a result of a couple of her constituents, who are familiar to laws in Arizona, want to know why Kansas can't have a law allowing golf carts on city streets. Section 1 and 2 of the bill are new. They contain the definition of a golf cart and describes the equipment required as well as where it's potentially legal to drive. It provides for local determination as to whether the use of golf carts on roads with a posted speed of less than 30 M.P.H. within that city is permitted. Unless the city takes action, they aren't allowed. (Attachment 4)

Senator Petersen said he would like to see them have Slow Moving Vehicle signs on them. Chairman Donovan said he might want to offer such an amendment when the bill was worked.

Larry Baer, Assistant General Counsel, League of Kansas Municipalities, apologized for not being on the official list to testify. He said they don't have an official position on the bill as they have cities on both sides of the issue. He said Senator Lee's constituents have contacted his office as well as hers. And she doesn't have the only cities with the new young trooper that says they can't do this even though they've done it all of their lives. Their position is one of seeking clarity. Their concern is that if its going to be operated as a motor vehicle, it should be required to carry liability insurance. (No handout)

John M. Gaffney, Albright & Gaffney, Chartered - Written Only (Attachment 5)

Carmen Alldritt, Director, Division of Motor Vehicles, DOR, again applauded Senator Lee for introducing this legislation. They have received lots and lots of questions pertaining to the issue. (No handout)

Chairman Donovan closed the hearing on **SB 413** and asked the committee what their pleasure was on the bills heard today.

Senator Schmidt made a motion to pass out SB 411 favorably. Senator Journey seconded the motion. The motion carried. Chairman Donovan said he would ask Senator Kelly to carry the bill.

Senator Journey made a motion to amendment SB 412 requiring the vehicle to have at least a 60 inch visibility flag. Senator Schmidt Seconded the motion. The motion carried.

Senator Journey made a motion to pass SB 412 favorably as amended. Senator Schmidt seconded the motion. The motion carried. Senator Lee will carry the bill.

The meeting adjourned at 9:29 a.m.

The date of the next meeting will be determined later.

**SENATE TRANSPORTATION COMMITTEE
GUEST LIST**

DATE: January 25 2006

NAME	REPRESENTING
Ken Gudankauf	KDOT
Ron McMurry	KDOT
Bill Miller	BUILDING ERECTION SERVICES CO.
Ken Keller	Western Extralite Co.
DAN MEYER	KHP
GARY DAVENPORT	KMCA
LARRY R BASK	CKM
CARMEN ALDRITT	KDOR
DIANE ALBERT	KDOR
JOHN EICHKORN	KHP
Tom Burgess	Buildm Erectun Services. Co

LAURA KELLY
SENATOR, 18TH DISTRICT
WABAUNSEE AND SHAWNEE COUNTIES



TOPEKA

SENATE CHAMBER

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

Testimony on SB411

Senate Transportation Committee

January 25, 2006

Chairman Donovan and Committee members:

Thank you for hearing this bill so quickly and for giving me the opportunity to appear before you.

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 loop at the end.

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SENATE OFFICE
STATE CAPITOL, ROOM 126-S
PHONE:

I Senate Transportation Committee
January 25, 2006
Attachment 1

KANSAS

DEPARTMENT OF TRANSPORTATION
DEB MILLER, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

TESTIMONY BEFORE THE SENATE TRANSPORTATION COMMITTEE

REGARDING SENATE BILL 411 CONCERNING VEHICLES ENGAGED IN HIGHWAY OPERATIONS

JANUARY 25, 2006

Mr. Chairman and Committee Members:

Good morning. My name is Ken Gudenkauf, Legislative Liaison for 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 still today undergoes outpatient therapy. 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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Senate Transportation Committee
January 25, 2006
Attachment 2

SENATOR JANIS K. LEE
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NATURAL RESOURCES
CAPITOL RESTORATION
JOINT COMMITTEE ON
INFORMATION TECHNOLOGY

**Senate Transportation Committee
January 25, 2006
Testimony of SB 412**

Dear Senator Donovan and Senate Transportation Committee Members;

Thank you your consideration of SB 412.

SB 412 is a simple bill that addresses the issue of the smaller electric and gas powered scooters, which do not fit into either the current definition of a motor vehicle or a bicycle. Since these are a rather new type of vehicle, which are not included in our current definitions, they cannot legally be driven on our streets or sidewalks. SB 412 would permit municipalities, at their discretion, to implement ordinances that would allow scooters to be legally operated in their communities.

This legislation resulted from concerns raised by several constituents from my area. I have received complaints both from businessmen who purchased the scooters as a cheaper method to travel to work and from parent who purchased the scooters for their children. In both instances they were more than surprised to learn, only after the fact, that it was not legal to operate them on our streets or sidewalks. Additionally, under current law local units do not have the authority to legalize the scooters if they so desire.

A brief review of the pertinent sections SB 412 include the definition of a "motorized toy vehicle" page 4 lines 42 and 43 and page 5 lines 1 through 4. ~~That definition is further qualified on page 3 lines 41 and 42 and page 5 lines 22 and 23 with "the capability of a minimum design speed of more than 15 miles per hour but not more than 30 miles per hour."~~

Local authority is given for sidewalk usage in Sec. 8 page 5 lines 33 through 35 and for street usage in Sec. 9, page 7 lines 28 and 29. In both cases local action is required in order to legalize the use of these motorized toys.

Again, thank you for your consideration. I'm pleased to stand for questions.

MORE THAN A TOY

NONTRADITIONAL VEHICLES IGNITE CONCERNS

For some consumers, the brightly colored, pint-sized motorcycles seem a perfectly proportioned match for their kids.

For others, particularly in urban areas, motorized scooters or battery-powered Segways provide nimble alternatives for getting a few blocks or across town—an enviable tradeoff to stop-and-go car traffic and hefty parking costs. In a retirement community, a modified golf cart can serve as a low-cost second vehicle for local trips.

But these increasing forms of nontraditional vehicles are raising more and more questions among motor vehicle administrators. For example, exactly where, in vehicle registration codes, do you categorize a hovercraft—a real-life question faced by one state?

Take a closer look at today's licensing, registration and safety regulations, and it quickly becomes clear that these growing numbers of nontraditional vehicles do not readily belong on the same roads as passenger vehicles, motorcycles and 18-wheeled commercial trucks. However, many jurisdictions are still navigating the impact of the issue and pursuing appropriate regulations to keep everyone safe on public roads and sidewalks. And all of these questions come as many vehicles are directly marketed and used by teenagers and others too young for traditional driver's licenses—and perhaps without driver education and helmets or other protective gear.



“In some cases, you have very young children Scott MacGregor. Add in that these youths have knowledge of traffic laws, and “you have the

Segways have become a popular form of transportation for commuting to work.



“In some of these cases, it’s a life-or-death decision,” said Scott MacGregor, assistant chief of the California Highway Patrol (CHP). When responding to a crash involving a youth on a nontraditional vehicle, he said his officers should not hear parents saying they didn’t understand the safety concerns.

AGREEING ON SAFETY FIRST

In general, jurisdictions across the United States and Canada largely agree that nontraditional vehicles, including pocket bikes, scooters and even skateboards, fail to meet the necessary criteria to operate on their public roads. At the basic level, these vehicles do not meet safety standards for brakes, tire size and other equipment requirements. These vehicles also may not comply with local emissions standards.

For many jurisdictions, the simple fact that these vehicles do not pass those requirements means that they aren’t eligible to be registered for legal operation on public roadways. Some have authorized restricted use of specialty vehicles on designated roads with low speed limits. And for many, since the vehicles can’t be registered for legal street use, there is no need to stipulate driver licensing requirements.

The ever-changing mix of these vehicles—whether called nontraditional, unconventional or alternative—is generating headlines as jurisdictions determine how their residents can enjoy their purchase.

According to the Associated Press, as of Aug. 1, it was



going as fast as 70 miles per hour,” said CHP’s no driver or safety training and limited makings of a true disaster.”

“perfectly legal for a child too young to get a driver’s license to drive his 30-pound motorized scooter alongside 3,000-pound cars on streets throughout the state.”

Calling them “impish” bikes, the *Honolulu Advertiser* in August noted that “pocket bikes are prohibited on public streets and sidewalks and in public parks.”

And *USA Today* last spring reported bans in Phoenix and Tucson. In La Porte, Texas, motorized scooters are restricted to daylight hours and to streets with posted speed limits of less than 30 mph “after two boys lost control of their scooter and were struck and injured by a car.”

Officials on the other side of the world face the same issues. In June, Australia launched a national investigation into the safety of “miniature replica” motorcycles.

Motor vehicle administrators point to safety statistics. In 2003, minibikes contributed to 2,345 emergency room visits, according to the Consumer Product Safety Commission. And the World Against Toys Causing Harm ranked pocket bikes among the “10 Worst Toys of 2004.”

EXPLOSION IN ALTERNATIVE VEHICLES

On one hand, these vehicles are providing new and often cost-effective resources for individuals. Electric power for certain vehicles contributes to a healthier air quality, and smaller physical sizes also allow drivers to navigate busy or limited-access streets.

“There are a lot of nontraditional vehicles, if you think about it,” said John Hilliard, deputy commissioner for Operations

with the New York State Department of Motor Vehicles.

Just recently, his department was given a demonstration of a car powered by fuel cells—not traditional gasoline—and eligible for state registration. In several states, low-speed electric vehicles, similar to golf carts with additional safety equipment, are eligible to navigate low-speed or private community roads by licensed drivers. And mopeds are legal on many streets.

The issue today is how to manage two- and three-wheeled power devices marketed as toys.

In California, officials are trying to forecast the continued evolution of nontraditional vehicles, in part to ensure a one-size-fits-all enforcement approach. “There is no lack of ingenuity on the part of the industry and the manufacturers in coming up with new vehicles,” CHP’s MacGregor said. “If you endorse one of these, do you know what it is and are there rules and legislation to govern it?”

Common reports show that some consumers try to register their pocket bikes as conventional motorcycles.

STARTING WITH MOTORIZED SCOOTERS

In the late 1990s, the popular holiday gift for youths was a motorized scooter.

In California, with some 600 police agencies within state borders, there was uncertainty about whether enforcement guidelines were needed. Questions came up about age restrictions, license requirements and helmet use, noted CHP’s MacGregor. The debate also recognized the

Study Shows Limited Helmet Use

In more than 10,000 emergency room injuries resulting from motorized scooter incidents over one year, only four out of 10 victims were wearing protecting helmets, according to a June 2005 study from the U.S. Consumer Product Safety Commission (CPSC). The study reviewed incidents from July 2003 through June 2004.

The CPSC also noted that few victims were wearing other safety gear, such as knee and elbow pads. About two-thirds of all injuries occurred in children under age 15.

CPSC Chairman Hal Stratton said that because seven out of 10 incidents were behavior or environment-

related, following local laws and CPSC safety guidelines can play a strong role in protecting children.

“The good news,” he said in a statement, “is that parents can help significantly reduce deaths and injuries to children by taking simple safety precautions such as making sure their kids wear helmets, ride only on smooth surfaces and avoid riding at night.”

According to CPSC reports, 29 of 49 deaths attributed to powered scooters between October 1998 and November 2004 were the result of an accident with a motor vehicle.



ATVs are popular year-round for fishing and other sporting interests.

value of electric vehicles to preserve air quality.

California now permits motorized scooters on roads with posted speed limits of 25 mph or less. On roads with higher speed limits, drivers must use the Class 2 bike lane, but the scooters are not permitted on sidewalks. California's law evolved to where drivers now must be 16 and licensed—a deterrent for individuals wanting an alternative transportation source if their licenses were suspended. In the last year, the new hot product became the pocket bike, a compact motorcycle that stands about 2 feet tall and can reach speeds of 60 mph—or faster with easy-to-make modifications. The bikes sell for as little as \$200 at mass market retailers.

"There was a perception that if a scooter was okay, then a pocket bike would be too. It very clearly is not," MacGregor said. "In some cases, you have very young children going as fast as 70 miles per hour." Add in that these youths have no driver or safety training and limited knowledge of traffic laws, and "you have the makings of a true disaster."

Citing safety concerns, New York agreed that the pocket bikes would not be regulated for street use. "How do you put them on the road with an 80,000-pound tractor trailer? You don't. You can't," Hilliard said. "There's no question who wins that confrontation."

Individuals caught using pocket bikes on public roads face charges of driving uninsured, unlicensed or unregistered.

THE LATEST CRAZE

Pocket bikes were never designed to share the highways with traditional vehicle traffic, according to motor vehicle administrators from coast to coast. Originally imported from Italy and other European nations, these bikes were designed and built for off-track competition. Top models can cost \$7,000 or more.

"In Québec, these vehicles are always considered off-road vehicles," said Daniel MacDuff, senior analyst for reg-

"True transportation licensing and titling," Raynald Marchand.

istration with the Society of Automobile Insurance of Québec (SAIQ). "They are not allowed on the public roads. The buyers think they will be able to use these on public roads, and they can't... They are toys. We consider them as toys."

In Canada, these bikes must be registered as restricted-use motorcycles for off-highway use—and their design and structure makes them incompatible with mass vehicle traffic on the roads.

"Of course, drivers don't see them—or expect them," said Raynald Marchand, manager of Traffic Safety and Training with the Canada Safety Council.

Drivers who take them on the road run the risk of a \$5,000 fine for driving without insurance. Drivers cannot get insurance because the vehicles cannot be registered, he noted.

People need to "think before they buy, but the price is low enough. Then they go home and don't know what to do with [these bikes], so then they start riding in the street," Marchand added.

True transportation alternatives—not toys—require proper licensing and titling, he reinforced.

ONE STATE'S PROACTIVE APPROACH

In the late 1990s, Wisconsin officials were witnessing an increasing number of motorized scooters, powered by either gas or electric battery with the ability to go up to 20 mph. Local police and safety officials were unsure of how—and whether—they should be regulated for use on public roads.

"Nobody knew what to do with them," said Paul Nilsen, assistant general counsel with the Wisconsin Department of Transportation. "We decided to go proactive."

Representatives from town associations, prosecutors and police groups across the state came together to analyze the issue. The group determined that the scooters were not street legal, largely because they could not be registered since they did not meet federal safety standards.

"To us, it just remains a safety issue," Nilsen said. "We don't know how they are manufactured...and we stick to our interpretation."

As other nontraditional vehicles have appeared in the state, that position has remained the same: Vehicles that fail to meet safety standards will not be registered. Wisconsin law also prohibits state officials from registering vehicles made for off-road use. "We didn't want to start changing the law to add every evolving vehicle type," Nilsen said.

Questions about whether riders met licensing require-

alternatives—~~not toys~~—require proper said the Canada Safety Council's

ments, including age restrictions, became irrelevant because those vehicles were not legal on public roads. "So, for example, you've got a 14-year-old riding a pocket bike," Nilsen said. "The issue is not where he's riding it, but what he's in violation of."

Parents can be held liable for their children's actions when pocket bikes, motorized scooters or other street-illegal vehicles hit the public roadways. Citations could be issued for unregistered operation and operating without a license, which together carry fines of nearly \$350.

"These are not motor vehicles," Nilsen said. "No one can ride motor vehicles without a valid license."

THE SEGWAY STORY

For two years before their revolutionary product hit the market, leaders with Segway were proactively working with state governments to ensure that the personal transportation device could be used legally. Corporate leaders, according to Matt Dailida, Segway's director of Regulatory Affairs, made a strategic decision to get the device regulated under the Consumer Product Safety Act.

They knew that its design, which included a lack of seatbelts, would never allow the Segway to comply with federal motor vehicle standards. And if it had to be redesigned to meet those standards, "the Segway would not look anything like it does," Dailida said.

While the Segway would represent a radical new transportation alternative, company officials didn't see a need for a radical new infrastructure on which it would operate. "It could work within the infrastructure that was already there," said Dailida, noting a particular emphasis on making it legal for the device to operate primarily on bike paths or sidewalks.

However, other motorized vehicles were also emerging, and state and local officials were weighing how to regulate their device as a serious product. Segway officials advocated for a categorization unique to their innovative product technology: EPAMD, an Electric Personal Assistive Mobility Device. An EPAMD is defined as a "self-balancing, nontandem, two-wheeled device that can turn in place, transports only one person, with an electric propulsion system averaging less than 1 horsepower, and travels less than 12.5 mph."

"What concerned us is that we could be captured by these ordinances or legislative requirements... [The Segway] really isn't like anything else," Dailida said. "We knew we were taking a look at turning around 100 years of law."

As of mid-July, 42 states and the District of Columbia

had passed EPAMD laws to regulate use in their jurisdictions—mostly, as Segway officials had lobbied for, on bike paths and sidewalks. As the product debuted in the market, "we wanted the protection of the law behind us," Dailida added. "It actually is working on the sidewalks, and on the bike lanes, and on the bike paths. We knew that what worked in one [jurisdiction] might not work in another."

OTHER NONTRADITIONAL APPROACHES

Québec's registered vehicles include 200,000 snowmobiles, for which drivers must have a registration plate and pay an annual fee. When traveling on private paths or property, a driver doesn't need a license.

"But if you cross a road or use a road ... then at that



moment, you need a driver's license," said MacDuff, of the SAIQ.

Similar requirements are in place for all-terrain vehicles (ATVs), popular year-round for fishing and other sporting interests. Nearly 300,000 ATVs are registered in Québec, and these vehicles can be adapted with skis on the front wheels and oversized traction on back wheels for snow use. As with conventional snowmobiles, "as soon as you get on the road, you need a driver's license," he said.

At the other end of the spectrum, city sidewalks do not include motorized vehicles used by the elderly or by individuals with disabilities—with no designs on using them for high-way transport. These limited-use and low-speed mobility scooters are generally permitted on the

sidewalks, if they are impeding traffic. However, "anything with a motor is pretty much frowned upon by being on the sidewalk," Marchand said.

FEDERAL GUIDELINES PROPOSED

In June, the *Federal Register* proposed new interpretations of motor vehicle definitions, with a goal of clarifying whether designated two- and three-wheeled vehicles, such as pocket bikes and motorized scooters, meet safety requirements.

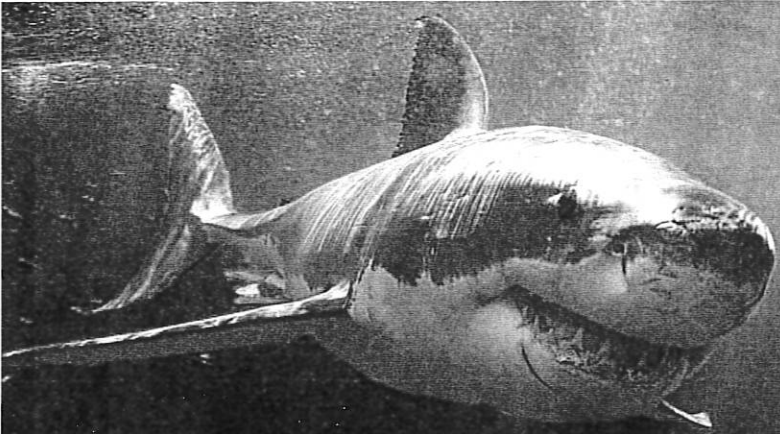
"Physical characteristics previously relied upon by the National Highway Traffic Safety Administration [NHTSA] are no longer reliable determinants of whether a two- or three-

wheeled vehicle is a 'motor vehicle,'" the proposal said. "Additionally, the vehicles that were the subject of past agency interpretations are no longer representative of the two- and three-wheeled vehicles on the market today." The proposal also noted continued changes in vehicle design and manufacturing.

MacGregor welcomes additional information. He notes that California often sees the latest innovations—both toys and true vehicle technology—first, before the trends take off to other areas of the country.

"You want to be able to forecast what's coming down the pike," MacGregor said. ■

Prepared by Kyra Scarton Newman,
Freelancer, Glen Allen, Virginia.



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SENATE CHAMBER

**Senate Transportation Committee
January 25, 2006
Testimony of SB 413**

Dear Senator Donovan and Senate Transportation Committee Members;

Thank you your consideration of SB 413.

SB 413, would allow municipalities to implement local ordinances to regulate the operation of properly equipped golf carts streets and roads in their communities.

SB 413 came about as a result of requests from constituents in my area who were familiar with a similar law in Arizona. These constituents were senior citizens from communities where we have no public transportation system. They feel that allowing the use of appropriately equipped golf carts on the street in their communities would enhance the ability of some of our citizens to continue living in their own homes longer.

Sec. 1 and 2 of SB 413 are new and include the definition of a golf cart, describes where it is potentially legal to drive a golf cart, and the equipment required for such a golf cart. The only addition in Sec. 3 is to include the definition of a golf cart. Sec.4 is necessary to insure that golf carts do not need to be registered. Sec. 6, page 6 lines 41 through 43 (referring to page 1 lines 26 to 28) describes the equipment that is necessary in order for a golf cart to be legal to be driven. Section 8, page 8 lines 39 through 42 and page 10 line 6 details the local authority. In this bill the local gov't must take action to disallow the use of golf carts on roads with a posted speed of less than 30 MPH within that city.

Again SB 413 provides for local determination as to whether the use of golf carts is appropriate in their community. While I do not anticipate that such an ordinance would be appropriate in one of our larger cities, it could be very helpful in our more rural communities where indeed we have no public transportation system.

Thank you for your consideration and I am pleased to stand for questions.

ALBRIGHT & GAFFNEY, CHARTERED

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January 20, 2006

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300 SW 10th Avenue, Room 527-S
Topeka, Kansas 66612

Re: Senate Bill 0413

Dear Chairman Donovan:

I am writing this letter to inform you why I support allowing golf carts to operate on city and county streets.

As you can tell from the letterhead, I am a lawyer in Anthony, Kansas. I have an elderly client who was no longer able to drive his car, so he purchased a motorized scooter to drive around the city where he lives (which is not Anthony). The scooter was inadequate for my client's transportation, because most of the streets in my client's city are gravel, and the scooter was so low to the ground that it got high-centered on the streets and my client was unable to move the scooter when it got stuck.

Therefore, my client began driving his golf cart on the city streets. Since there was no law to allow my client to drive his golf cart on city streets, the law enforcement officers would not permit my client to operate his golf cart on the city streets.

On behalf of my client, I filed a motion in the district court, asking the court to designate my client's golfcart as a "motorized wheelchair" for the purpose of allowing my client to use his golfcart for transportation within the city limits. Attached is a redacted copy of the motion I filed with the court. I was not successful in getting the court to grant my motion.

Thank you for considering my letter, and if you have any questions, please contact me at (620) 842-5357.

Very truly yours,



John M. Gaffney

JMG:mk
Enclosure per letter.

Senate Transportation Committee
January 25, 2006
Attachment 5

John M. Gaffney
 Albright & Gaffney, Chartered
 Attorneys at Law
 123 North Bluff
 Post Office Box 334
 Anthony, Kansas 67003
 Telephone: (620) 842-5357

IN THE _____ JUDICIAL DISTRICT
 DISTRICT COURT, _____ COUNTY, KANSAS

IN THE MATTER OF _____)
) NO. 05 XX XXX
)
 _____)

MOTION FOR DESIGNATION OF "MOTORIZED WHEELCHAIR"

COMES NOW respondent, by counsel, and requests an order designating respondent's golf cart as a "motorized wheelchair", for purposes of allowing respondent to use his golf cart for transportation within the city limits of _____, Kansas.

IN SUPPORT of this motion, respondent shows the court that:

1. Respondent is 82 years old, and a recent widower. His wife died on March 3, 2005.

2. Rather than eat all his meals alone at home, respondent prefers the company provided by eating some of his noon and evening meals downtown. However, because he has no driver's license, he is prohibited from driving a "motor vehicle" downtown (or anywhere else). (K.S.A. 8-235.)

3. Respondent lives twelve blocks from downtown, and suffers from chronic obstructive pulmonary disease (COPD), which makes it impossible for him to walk downtown.

4. K.S.A. 8-126(b) defines a "motor vehicle" as every self-propelled vehicle, except a motorized bicycle or a motorized wheelchair.

5. K.S.A. 8-126(dd) defines a "motorized wheelchair" as any self-propelled vehicle designed specifically for use by a physically disabled person that is incapable of speed in excess of 15 miles per hour.

6. On May 26, 2005, the court released respondent to return to living in his home.

7. On May 27, 2005, respondent acquired a three-wheeled, battery-powered "motorized wheelchair", which, in the past month, respondent has diligently tried to use to get to and from his home and downtown, but, on nearly every attempt, his "motorized wheelchair" has gotten high-centered because of its low ground clearance. Because of his COPD, Respondent is unable, without assistance, to free his "motorized wheelchair" when it becomes stuck, and assistance is not always readily available.

8. Respondent has a golf cart that he has used in the past to get around town, but he has recently been told by law enforcement that it is not legal for him to do so.

9. Respondent's golf cart is not capable of speed in excess of 15 miles per hour, but it does not meet the statutory definition of a "motorized wheelchair" because it is not

specifically designed for use by a physically disabled person. However, in respondent's case, respondent can only use his golf cart as a "motorized wheelchair" because he is physically disabled due to his COPD and cannot play golf. In addition his golf cart has sufficient ground clearance so that it does not get high-centered.

10. Based on the foregoing facts, respondent's golf cart should be designated as a "motorized wheelchair" for purposes of allowing respondent to use his golf cart for transportation within the city limits of _____, Kansas.

WHEREFORE, respondent respectfully requests that the court sustain this motion and enter an order accordingly.

John M. Gaffney, SC#10357
Albright & Gaffney, Chartered
Anthony, Kansas
Attorney for Respondent.