

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Les Donovan at 8:30 A.M. on February 1 in Room 527-S of the Capitol.

All members were present.

Committee staff present:

Hank Avila, Kansas Legislative Research Department
Robert Waller, Kansas Legislative Research Department
Bruce Kinzie, Revisors of Statutes
Maggie Breen, Committee Secretary

Conferees appearing before the committee:

Don McNeely, Kansas Automobile Dealers Association
Senator Phil Journey
Carmen Alldritt, Director of Motor Vehicles, DOR
Willie Jones, US Major, Retired

Others attending:

See attached list.

Chairman Donovan asked for introduction of bills.

Don McNeely, Kansas Automobile Dealers Association, requested the introduction of two bills amending K.S.A. 8-135. The first deals with an expedited lien release time frame for when a lien must be released upon the satisfaction of a security interest in a motor vehicle. The second request extends the time period within which a creditor can perfect a security interest. (Attachment 1 and 2)

Senator Wilson made a motion to introduce both bills. Senator O'Connor seconded the motion. The motion carried.

Senator Petersen said he had a conceptional bill. The bill deals with an additional exceptions to "tools of the trade" legislation which was enacted several years ago. He wants to add yard maintenance.

Senator O'Connor made a motion to introduce the legislation. Senator Gilstrap seconded the motion. The motion carried.

Chairman Donovan opened the hearing on SB 346 - Regulating traffic, television-type equipment, operation thereof.

Senator Journey said SB 346 reflects a case where technology has outpaced current law. Current law says no vehicle can be equipped with a television-type receiving equipment located where the screen is visible from the driver's seat. SB 346 amends the statute to make the operation of the screen, rather than the possession of it, a violation of the statute. (Attachment 3)

Chairman Donovan closed the hearing on SB 346 and opened the hearing on SB 396- Military veteran license plates, travel trailers.

Carmen Alldritt, Director, Division of Motor Vehicles, said she didn't have any problem with SB 396. They will have to shrink down the veteran's emblem in order to make room for a sixth digit as they are running out of numbers. She said they sell them for 50 cents at the county treasurers's office and they cost \$3.50 to make. It's a little benefit they receive. (No handout)

Willie Jones, US Major, Retired, said it was an honor to be before the committee. He is a veteran of 22 years. He served in Korea for 14 months and did 3 tours in Viet Nam. He thinks that something that has disappeared in our country is the thought of and the care for veterans. He had a motor home and he bought a veteran's tag for it. He traded his motor home for a fifth wheel. He went in to get his new tag and the lady said "you can't have it." He told her it didn't make sense. He was told "That's just the law." He told her he doesn't know

CONTINUATION SHEET

MINUTES OF THE Senate Transportation Committee at 8:30 A.M. on February 1 in Room 527-S of the Capitol.

who wrote that law, and if there is anyone on the committee was involved in writing he apologized, but he doesn't think it is realistic. He told Senator Derek Schmidt, a good friend of his, and the Senator wrote **SB 396**. Mr. Smith thinks it is a very good bill. He said veterans are proud to be veterans and thinks they should be given this opportunity to show it. (Attachment 4)

Chairman Donovan closed the hearing on **SB 396** and asked what the committee's pleasure was on the two bills.

Senator Journey made a motion to pass SB 396 favorably and place it on the consent calendar. Senator Palmer seconded the motion. The motion carried.

Senator Schmidt made a motion to pass SB 346 favorably. Senator Wilson seconded the motion. The motion carried. Senator Journey will carry the bill.

Chairman Donovan said the committee would look at SB 344- Traffic regulation, school crossing zones, school crossing guards.

Senator Schmidt recalled that Mr. Church had suggested an amendment to change the word "may" on line 28 to "should." However, she doesn't think should is strong enough. She would like for it to be changed to "shall."

Senator Schmidt made a motion to amend the word "may" on line 28 to "shall." Senator Wilson seconded the motion. The motion carried.

Senator O'Connor made a motion to amend ln 20 and 21 to "or any person under 18 years of age who is being directly supervised by a person at least 18 years of age." The motion died for lack of a second.

Senator Journey made a motion to pass SB 344 out favorably as amended. Senator Petersen seconded the motion. The motion carried. Senator Journey will carry the bill.

Chairman Donovan asked if there was a motion on SB 347 - Doubling speeding fines in school zones.

Senator Schmidt made a motion to pass SB 347 favorably. Senator Wilson seconded the motion. The motion carried. Senator Journey will carry the bill.

The meeting adjourned at 9:08 a.m.

The next scheduled meeting is Tuesday, February 7.



KANSAS AUTOMOBILE DEALERS ASSOCIATION

February 1, 2006

To: Chairman Les Donovan
And the Senate Transportation Committee

From: Don McNeely, KADA President

Re: Bill Introduction Request – Satisfaction of Security Interests

Chairman Donovan and Members of the Committee:

My name is Don McNeely, President of the Kansas Auto Dealers Association, a state trade association representing the franchised new car and truck dealers in the state of Kansas. I appear before you this morning to request introduction of an amendment to K.S.A. 8-135 regarding the timeframe for when a lien must be released upon the satisfaction of a security interest in a motor vehicle.

The proposed amendment establishes an expedited lien release time frame of 3 days, when the indebtedness to a lienholder is paid in full by means of electronic transfer of funds. Dealers and consumers would also have the ability to file complaints with the Division of Vehicles against lenders who fail to comply with the requirements to release liens within 3 days after demand, or within 10 days, if the indebtedness is not made by electronic transfer of funds, but some other means. In addition, the Division of Vehicles would also have the authority to issue written notice of non-compliance to lenders, conduct hearings, and issue fines up to \$5000 for repeat offenders.

On behalf of the Kansas Automobile Dealers Association, we respectfully request the introduction of this bill proposal. Thank you.

Attachments

800 S.W. Jackson, Suite 1110 • Topeka, KS 666
Telephone (785) 233-6456 • Fax (785) 233-146

Senate Transportation Committee
February 1, 2006
Attachment 1

SENATE BILL No. ____

AN ACT concerning the satisfaction and release of liens and encumbrances on vehicles and establishing civil penalties for failure to timely do so.

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

New Section 1. (a) Upon the satisfaction of a lien or encumbrance on a vehicle which is subject to the provisions of K.S.A. 2005 Supp. 8-135 and amendments thereto, or K.S.A. 2005 Supp. 8-135d and amendments thereto, the lienholder shall, within three days after receipt of a payment of the type described by subsection (c) fully execute a release of the lien or encumbrance in the manner the Division prescribes, and mail or deliver the release where directed by the person who requests the release thereof as set forth on a form approved by the Division, in the manner prescribed by the Division depending upon whether the certificate of title is an electronic certificate of title or not. In all other instances of satisfaction of a lien or encumbrance under this subsection, the lienholder shall fully execute a release of the lien or encumbrance in the manner the Division prescribes within ten days of delivery of payment and mail or deliver the release where directed by the person who requests the release thereof as set forth on a form approved by the Division in the manner prescribed by the Division depending upon whether the certificate of title is an electronic certificate of title or not. Lien releases for an electronic certificate of title shall be in the manner prescribed by the Division.

(b) Upon the satisfaction of a lien or encumbrance on a vehicle for which the certificate of title is in the actual possession of a lienholder whose lien is satisfied, the lienholder shall, within three days after receipt of a payment satisfying the lien which is of the type described by subsection (c), fully execute a release of the lien or encumbrance in the manner the Division prescribes, and mail or deliver the release where directed by the person who requests the release thereof as set forth on a form approved by the Division. In all other instances of satisfaction of a lien or encumbrance under this subsection on a vehicle for which the certificate of title is in the possession of a lienholder whose lien is satisfied, the lienholder shall fully execute a release of the lien or encumbrance in the manner the Division prescribes within ten days of delivery of payment and mail or deliver the release where directed by the person who requests the release thereof as set forth on a form approved by the Division.

(c) If the payment in satisfaction of the lien or encumbrance is in cash or by intra-bank transfer of funds or inter-bank electronic transfer of funds, or other electronic transfer of funds, the payment shall be considered cleared immediately upon receipt by a lienholder, at which point the satisfaction of the lien or encumbrance shall be deemed to have occurred.

(d) For purposes of subsections (a) and (b), the release is deemed fully executed where the release is not by electronic means at that point in time when it is completed and placed in the United States mail, postage prepaid, directed to the person requesting the lien release as shown on the form so requesting it; or if the release is

accomplished electronically, the release is deemed fully executed when it is delivered to the person requesting the release as shown on the form so requesting it, in the manner prescribed by the Division.

(e) If a lienholder fails to comply with subsection (a) or (b), an aggrieved party may file a complaint against the lienholder with the Division. For the purposes of this section, an aggrieved party shall be the Division, the owner of the vehicle subjected to the lien or any person making a valid lien request on a form approved by the Division whereby the lienholder has failed to comply with the applicable subsection (a) or (b).

(f) Notwithstanding any other provision of law, the Director of Vehicles, or other duly appointed hearing officer, on a complaint filed with the Division may assess a civil administrative penalty on a lienholder who fails to comply with the applicable portions of subsections (a) or (b) or any regulation issued by the Division pursuant to this Act after a hearing pursuant to the Kansas administrative procedures act. A lienholder shall not be found liable for such noncompliance if the noncompliance occurred as a result of the action or inaction of the Division or county treasurer. A lienholder who is found to be in violation of this Act may, in the discretion of the Director of Vehicles or other duly appointed hearing officer, have a civil administrative penalty imposed upon such person of up to \$500 for a first offense. For each successive violation, the civil administrative penalty may be up to \$2,000; but, if the lienholder has been cited and penalized by the Division for noncompliance five or more times in the preceding 12 month period, the penalty may be imposed for an amount up to \$5,000 for each subsequent offense.

(g) Whenever the Division seeks to assess a civil administrative penalty itself or on complaint by a person pursuant to this Act, the Division shall cause to be served upon the lienholder, either by service in hand, or by certified mail, return receipt requested, written notice in the manner provided for instituting an action under the Kansas administrative procedures act of the intent to assess a civil administrative penalty, which shall include a concise statement of the alleged act or omission for which the civil administrative penalty is sought to be assessed, the law that has not been complied with as a result of the alleged act or omission, the amount that the Division seeks to assess as a civil administrative penalty for each alleged act or omission, a statement of the lienholder's right to a hearing on the proposed assessment, the requirements the lienholder shall comply with to avoid being considered to have waived the right to a hearing, and the manner of payment thereof if the lienholder elects to pay the penalty and waive a hearing.

(h) Whenever the Division seeks to have a civil administrative penalty assessed against a lienholder, the lienholder shall have the right to a hearing as provided by the Kansas administrative procedures act, which shall apply except as provided in this section.

(i) A lienholder who institutes proceedings for judicial review of the final assessment of a civil administrative penalty shall do so in the District Court of Shawnee County, Kansas, which shall have exclusive jurisdiction for judicial review of agency actions under this Act. The lienholder shall place the full amount of the final

assessment in an interest-bearing account in the custody of the clerk of the District Court of Shawnee County, Kansas in a manner required by the clerk. The establishment of the interest bearing account shall be a condition precedent to the jurisdiction of the reviewing court unless the party seeking judicial review files a motion seeking to extend the time for making the account or to waive it and demonstrates in a preliminary hearing held within 20 days of the filing of the complaint either the presence of a substantial question for review by the court, an inability to pay, or other material cause for extending or waiving the establishment of the account. After hearing the motion, the court may grant an extension or waiver of the interest bearing account or may require, in lieu of the interest bearing account, the posting of a bond payable directly to the State of Kansas in the amount of 125 per cent of the assessed penalty.

(j) If, after judicial review, in a case where the requirement for an account has been waived, and in cases where a bond has been posted in lieu of the requirement, the court affirms, in whole or in part, the assessment of a civil administrative penalty, the Division shall be paid the amount thereof together with interest at the rate of 10 percent per annum. If, after the review in a case where an interest-bearing account has been established, the court affirms the assessment of the penalty, in whole or in part, the Division shall be paid the amount thereof together with the accumulated interest thereon in the interest-bearing account. If the court sets aside the assessment of a civil administrative penalty in a case where the amount of the penalty has been deposited in an interest-bearing account, the lienholder on whom the civil administrative penalty was assessed shall be repaid the amount so set aside, together with the accumulated interest thereon.

(k) Each lienholder who fails to pay a civil administrative penalty after it becomes final, and each lienholder who issues a bond pursuant to this section and who fails to pay to the Division after the liability becomes final, the amount required hereunder, shall be liable to the Division for up to 3 times the amount of the civil administrative penalty, together with costs, plus interest from the time the civil administrative penalty became final and attorneys' fees, including all costs and attorneys' fees incurred directly in the collection thereof. The rate of interest shall be the rate of 10 percent per annum.

Sec. 2. This Act shall be part of Chapter 1, Article 8 of the Kansas Statutes Annotated.

Sec. 3. This Act shall take effect and be in force from and after January 1, 2007.



KANSAS AUTOMOBILE DEALERS ASSOCIATION

February 1, 2006

To: Chairman Les Donovan
And the Senate Transportation Committee

From: Don McNeely, KADA President

Re: Bill Introduction Request – Perfection of Security Interest Amendment

Chairman Donovan and Members of the Committee:

My name is Don McNeely, President of the Kansas Auto Dealers Association, a state trade association representing the franchised new car and truck dealers in the state of Kansas. I appear before you this morning to request introduction of an amendment to K.S.A. 8-135 regarding the time period which a creditor can perfect a security interest.

Due to the changes in the Federal Bankruptcy Code, which went into effect last October, we respectfully request the timeframe to perfect a lien on a motor vehicle be extended from 20 to 30 days. This proposal would bring Kansas in line with the amendments to the Federal Bankruptcy Code and avoid bankruptcy losses that have occurred due to lien perfection outside the current 20-day period as provided by Kansas law, but within the 30-day time period allowed under federal law.

On behalf of the Kansas Automobile Dealers Association, I respectfully request the introduction of this bill proposal. Thank you.

Attachment

a valid Kansas title or registration, except that when a vehicle is registered in another state, but is financed originally by a financial institution chartered in the state of Kansas or when a financial institution chartered in Kansas purchases a pool of motor vehicle loans from the resolution trust corporation or a federal regulatory agency, and the vehicle is repossessed in another state, such Kansas financial institution shall be entitled to obtain a valid Kansas title or registration. In addition to any other fee required for the issuance of a certificate of title, any applicant obtaining a certificate of title for a repossessed vehicle shall pay a fee of \$3.

(3) Dealers shall execute, upon delivery to the purchaser of every new vehicle, a manufacturer's statement of origin stating the liens and encumbrances thereon. Such statement of origin shall be delivered to the purchaser at the time of delivery of the vehicle or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays. The agreement of the parties shall be executed on a form approved by the division. In the event delivery of title cannot be made personally, the seller may deliver the manufacturer's statement of origin by restricted mail to the address of purchaser shown on the purchase agreement. The manufacturer's statement of origin may include an attachment containing assignment of such statement of origin on forms approved by the division. Upon the presentation to the division of a manufacturer's statement of origin, by a manufacturer or dealer for a new vehicle, sold in this state, a certificate of title shall be issued if there is also an application for registration, except that no application for registration shall be required for a travel trailer used for living quarters and not operated on the highways.

(4) The fee for each original certificate of title shall be \$10 in addition to the fee for registration of such vehicle, trailer or semitrailer. The certificate of title shall be good for the life of the vehicle, trailer or semitrailer while owned or held by the original holder of the certificate of title.

(5) Upon sale and delivery to the purchaser of every vehicle subject to a purchase money security interest as provided in article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, the dealer or secured party may complete a notice of security interest and when so completed, the purchaser shall execute the notice, in a form prescribed by the division, describing the vehicle and showing the name and address of the secured party and of the debtor and other information the division requires. The dealer or secured party, within ~~20~~ days of the sale and delivery, may mail or deliver the notice of security interest, together with a fee of \$2.50, to the division. The notice of security interest shall be retained by the division until it receives an application for a certificate of title to the vehicle and a certificate of title is issued. The certificate of title shall indicate any security interest in the vehicle. Upon issuance of the certificate of title, the division shall mail or deliver confirmation of the receipt of the notice of security interest, the date the certificate of title is issued and the security interest indicated, to the secured party at the address shown on the notice of security interest. The proper completion and timely mailing or delivery of a notice of security interest by a dealer or secured party shall perfect a security interest in the vehicle described on the date of such mailing or delivery. The county treasurers shall mail a copy of the title application to the Kansas lienholder. Each county treasurer shall charge the Kansas lienholder a \$1.50 service fee for processing and mailing a copy of the title application to the Kansas lienholder.

(6) It shall be unlawful for any person to operate in this state a vehicle required to be registered under this act, or to transfer the title to any such vehicle to any person or dealer, unless a certificate of title has been issued as herein provided. In the event of a sale or transfer of ownership of a vehicle for which a certificate of title has been issued, which certificate of title is in the possession of the transferor at the time of

SENATOR PHILLIP B. JOURNEY

STATE SENATOR, 26TH DISTRICT
P.O. BOX 471
HAYSVILLE, KS 67060

STATE CAPITOL—221-E
300 S.W. 10TH AVENUE
TOPEKA, KANSAS 66612-1504
(785) 296-7367

E-mail: journey@senate.state.ks.us



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS

MEMBER: SPECIAL CLAIMS AGAINST THE STATE
(JOINT), CHAIR
HEALTH CARE STRATEGIES
JUDICIARY
PUBLIC HEALTH AND WELFARE
TRANSPORTATION

CORRECTIONS AND JUVENILE JUSTICE
OVERSIGHT (JOINT)

SOUTH CENTRAL DELEGATION, CHAIR

**Testimony for the Kansas Senate Transportation Committee
Presented February 1st, 2006 in Support of Senate Bill #346**

It is a privilege and an honor to have the opportunity to address the Senate Transportation Committee and to offer comments in support of Senate Bill #346.

Senate Bill #346 is a simple piece of legislation which addresses the circumstances where technology has outpaced current law. It amends K.S.A. 8-1748 repealing the existing section and replacing it with the language in the bill.

Current law says that no motor vehicle can be equipped with a television-type receiving equipment located where the screen is visible from the driver's seat. Current technology being sold every day in Kansas includes not just the video screens we see in mini-vans that are appropriately placed under current law behind the drivers's seat, but also screens that are installed in the dash which are viewable by the driver. Many after-market entertainment systems have screens that retract inside the dash and pop out with operation. Senate Bill #346 amends that statute so as to make only the operation of the screen rather than possession a violation of state statute.

I would ask the committee to favorably recommend this legislation for passage as it more accurately represents our circumstances and technologies.

Respectfully submitted,

A large, stylized handwritten signature in blue ink that reads 'Phillip B. Journey'. The signature is written over the printed name and district information.

Senator Phillip B. Journey
26th District

TAGS for VETERANS CAMPER TRAILERS

To Whom it may concern:

There appears to be a very serious discrepancy in the current law. You can purchase a veteran's tag for a motor home, but not for a travel trailer. My concern is why this difference. I feel there is no real logical reason for this. I served fourteen months in the Korean Conflict and am very proud of my service. I also served three tours of twelve months in Vietnam of which whatever people might think I believe in doing my duty. I realize this is a minor issue with most of those here today. As a veteran of twenty two years of service this is a black eye to all of us veterans. It is my deepest feeling that we should not be discriminated in this matter. These are the people that have and are keeping our country free to live in such a great democracy. This is why we have voted to elect those who are realistic in making laws that support the people.

**Willie L. Jones
US Major Retired
1920 Nth 24th Street
Independence, KS 67301**

Telephone: 620 331 2787