

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Les Donovan at 8:40 A.M. on February 22, 2006 in Room 527-S of the Capitol.

All members were present.

Committee staff present:

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

Conferees appearing before the committee:

Sally General Counsel, KDOT
Phillip Bradley, Kansas Licensed Beverage Association
Alan Anderson, Chief of Kansas Driver's License Examining Bureau
Don McNeeley, Kansas Automobile Dealers Association
Kathy Olsen, Kansas Bankers Association
Bill Henry, Kansas Credit Unions Association

Others attending:

See attached list.

Chairman Donovan opened the discussion on **SB 253 -Highway advertising control act of 1972, amendments.**

Sally Howard, General Counsel, KDOT, covered the changes in the bill since the hearing. The definition of visible was changed back to the old language which meant deleting "whether legible or not." Federal Highway said it was parenthetical and not necessary. The other main change is 68-2234 (f). They had intended to strike less restrictive but the League of Municipalities had a problem with that so they left it in. KDOT recognizes that some signs are going to need to be "grandfathered." Once the bills goes through, new things will be required. They are all right with the cities taking control over their jurisdictions but on Interstates they would like for them to be at least as restrictive as KDOT's requirement in respect to the size and spacing of the signs. Also there are a couple of small changes: "shall be met" needs to follow "and amendments thereto." Subsection (g) was significantly shortened. They were providing guidance to the cities about what they considered spot zoning and the League felt that the cities might think they were being told what to do a little too much. There was a point where they mentioned you couldn't build a sign more that 660 feet from the highway. That's not consistent with the visible language so it was stricken. (Attachment 1)

Chairman Donovan asked if the other people involved were satisfied with the changes. Tom Palace said the sign people were fine with them. The League of Kansas Municipalities said they were now fine with the bill.

Senator Wilson made a motion to move **Substitute for SB 253** out favorably. Senator Schmidt seconded the motion. The motion carried.

Senator Palmer said she had two amendments to the Substitute bill. The first amendment provides for the secretary of transportation to compile and maintain a current listing of all signs available for the purpose of increasing tourism or economic development. (Attachment 2)

Senator Palmer made a motion to move her amendment to **Substitute for SB 253**. Senator Wilson seconded the motion. The motion carried.

Senator Palmer's presented her second amendment (recorder did not pick up her explanation). (Attachment 3)

Ms. Howard said the only concern she has with the proposed amendment is on page 22 (of attachment) where it says the department or its agent shall give 60-days notice by certified mail return receipt request. She said she felt the return receipt could cause a problem if the person just didn't return it. She asked if sending it certified mail would suffice. Senator Palmer said she didn't have a problem with that.

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Bruce said he would make the change.

Senator Palmer made a motion to adopt her second amendment as changed. Senator Wilson seconded the motion. The motion carried.

Senator Wilson made a motion to move **Substitute for SB 253** out favorably. Senator Palmer seconded the motion. The motion carried.

(Bruce Kinzie said that the amendments just became part of the changes that made up **Substitute for SB 253** so the bill wasn't reported as amended.)

Chairman Donovan opened the hearing on **SB 554 - Expiration of driver's licenses for people under 21 years of age.**

Phillip Bradley, Kansas Licensed Beverage Association, said **SB 554** is very simple bill. We currently have in our state vertical and horizontal driver's licenses and ID cards. Those under the age of 21 are issued a vertical card. When the bill was passed in 2003, a fatal flaw was made. We neglected to put in "this driver's license expires on the 21st birthday." It happens on the ID card. Right now, if you're over 21, you can be carrying a vertical driver's license. This bill resolves the issue. Over 24 states are doing this. Law enforcement supports this bill. He said the Bruce Kinzie and the Department of Revenue have brought up a small technical amendment that adjusts the fee structure. (Attachment 4)

Bruce Kinzie explained the fee structure. (Attachment 5)

Alan Anderson, Chief of Kansas Driver's License Examining Bureau, said they've had about 35,000 people a year for the last several years. Once they get the first few years of renewals on the right cycle, they won't have any additional expense. The number is small compared to the 500,000 to 600,000 they send out a year. They don't see it as being a great additional expense. (Attachment 6)

Sheriff Randy Rogers, Kansas Sheriff's Association - Written only (Attachment 7)

Chairman Donovan closed the hearing on **SB 554** and asked the committee their wishes.

Senator Schmidt made a motion to adopt the amendment to **SB 554**. Senator Wilson seconded the motion. The motion carried.

Senator Schmidt made a motion to move **SB 554** out favorably as amended. Senator Palmer seconded the motion. The motion carried.

Chairman Donovan opened the hearing on **SB 558 - Lien release on vehicles, penalties for failure to.**

Don McNeeley, Kansas Automobile Dealers Association, said **SB 558** is needed due to two problems they are experiencing under current statute. The first problem is that new and used motor vehicle dealers buy a used car and don't have a clear title, due to a lien or encumbrance on the vehicle. Even though the lien payoff has been made, the dealer cannot sell this vehicle until the certificate of title has been delivered to the dealer by the lien holder or cleared electronically through the Division of Vehicles. Substantial delays frequently occur, in violation of current law. The second problem is when a consumer pays off his loan on a vehicle and wants to sell the vehicle privately but the lien has not been released. The delay in receipt of the title to the dealer or owner has typically been 2 to 3 weeks and even as much as a month or two. This bill places penalties on the delay of the release of the lien. (Attachment 8)

Kathy Olsen, Kansas Bankers Association, said they helped draft the bill but had some friendly amendments that she thinks will go a long ways to make the bill more workable for all the parties. On lines 16 and 21 they have added the word "business." On line 17 and 22 it is made clear that "a request for the release of the lien" is needed. On line 34 they added the word "or delivered" to allow for the release to be faxed. Finally, on line 36 and 37, they have clarified that when it is delivered "electronically to the division"

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it meets the delivered requirement. (Attachment 9)

Bill Henry, Kansas Credit Unions Association, appeared as an opponent. He said they didn't take part in any of the discussions as the bill was draw up. Their chief objection to the bill is they find the penalties to be somewhat draconian. On page 2 in subsection (2), for the first violation a civil penalty can be assessed for not less than \$100 but not more than \$500. The civil penalty for a second violation, would amount to not less that \$500 up to \$2,000. There are other provisions he also sites in his testimony. They believe it is a somewhat tough response. They believe it's important for commerce to move these liens quickly and make every attempt as credit unions to comply with the current statute. But they have difficulty with the penalties. (Attachment 10)

Senator Apple made a motion to amend SB 558 by adding the words "within a twelve-month period" after "for each subsequent violation." Senator Wilson seconded the motion. The motion carried.

Senator Apple made a motion to adopt the technical amendments presented by Kathy Olsen. Senator Wilson seconded the motion. The motion carried.

Senator Wilson made a motion to move SB 558 out favorably as amended. Senator Apple seconded the motion. The motion carried.

The meeting adjourned at 9:33 a.m.

The next meeting date is to be determined.

**SENATE TRANSPORTATION COMMITTEE
GUEST LIST**

DATE: February 22, 2006

NAME	REPRESENTING
Kathy Olsen	Ks Bankers Assn
Tom Whitaker	Ks Motor Carriers Assn
Tom Palace	PMCA of KS
Don McNEELY	KADA
Whitney Jansen	KADA
MATZELSDORF	LAURE ADVERTISING
Phil Bradley	KLBA
John Meetz	KID
LARRY R BAER	LICMA
Ken Gudenkunt	KDOT
Sally Howard	KDOT
KATHY FACER	FHWA
MARK HUFFHINES	FHWA
CARMELO ALDRICH	KDOR
ALAN ANDERSON	KDOR
TERRY MITCHELL	KDOR

Substitute for SENATE BILL NO. 253

By Committee on Transportation

AN ACT amending the highway advertising control act of 1972; amending K.S.A. 68-2232, 68-2233, 68-2234, 68-2235, 68-2236, 68-2240 and 68-2243 and repealing the existing sections.

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

Section 1. K.S.A. 68-2232 is hereby amended to read as follows: 68-2232. As used in this act the following words and phrases shall have the meanings respectively ascribed to them herein: (a) "Adjacent area" "controlled area" means an area which is adjacent ~~to--and--within-660-feet-of-the-nearest-edge-of~~ the right-of-way on any interstate or primary highway, ~~which distance shall-be-measured-horizontally-along-a-line-perpendicular-to,--or at--an-angle-of-90-degrees-to,--the-center-line-of-the-highway~~ and is visible from the main traveled way.

(b) "Business area" means any part of an adjacent area, except areas adjacent to scenic byways, designated by the secretary of transportation, which is ~~at-any-time:~~

(1) Zoned for industrial or commercial activities under the authority of any law or by a local zoning authority; or

(2) ~~not--so--zoned,--but--which---constitutes~~ an unzoned commercial or industrial area as herein defined.

(c) "Center line of the highway" means a line equidistant from the edges of the median separating the main traveled ways on a divided highway, or the center line of the main traveled way on a nondivided highway.

(d) "Commercial or industrial activities" means, for the purpose of establishing unzoned commercial or industrial areas, those activities generally recognized as commercial or industrial by local zoning authorities in this state, but excludes the following activities:

(1) Outdoor advertising structures;

(2) agricultural, forestry, ranching, grazing, farming and related activities, including, but not limited to, wayside fresh produce stands;

(3) transient or temporary activities;

(4) activities not visible from the traffic lanes of the

main traveled way;

(5) activities more than 660 feet from the nearest edge of a highway right-of-way;

(6) activities conducted in a building principally used as a residence; and

(7) railroad tracks and minor sidings;

~~(e) -- "Commission" means the secretary of transportation.~~

(8) on-premise or on-property signs as provided for in subsection (c) of K.S.A. 68-2233, and amendments thereto, if the on-premise or on-property sign is the only part of the commercial or industrial activity that is visible from the main traveled way;

(9) any outdoor advertising activity or any other business or commercial activity carried on in connection with an outdoor advertising activity; and

(10) illegal junkyards as provided for in K.S.A. 68-2201 through 68-2215, and amendments thereto, and junkyards lawfully in existence pursuant to K.S.A. 68-2207, and amendments thereto.

(e) "Comprehensive zoning" means zoning by local zoning authorities of each parcel of land under the jurisdiction of the local zoning authority placed in a zoning classification pursuant to a comprehensive plan or reserved for future classification.

(f) "Department" means the Kansas department of transportation.

~~(f)~~ (g) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any other way bring into being or establish, but it shall not include any of the foregoing activities when performed as an incident to the change of advertising message or customary maintenance or repair of a sign structure.

~~(g)~~ (h) "Freeway" means any primary highway which is either:

~~(1) -- a -- controlled-access -- highway, -- as -- defined -- by -- K.S.A. 8-1410, -- and -- amendments -- thereto;~~

~~(2) -- a -- controlled-access -- facility -- constructed -- pursuant -- to K.S.A. 68-1901 -- et -- seq., -- and -- amendments -- thereto; -- or~~

~~(3) -- a -- modern -- express -- highway -- or -- freeway -- constructed -- pursuant~~

~~to--K.S.A.--68-2301,--and--amendments--thereto~~ a divided arterial highway with four or more lanes available for through traffic with full control of access and grade separation at intersections.

~~(h)~~ (i) "Highway" means a highway as defined by K.S.A. 8-1424, and amendments thereto. For the purpose of this act, a highway shall be considered a highway when the project for improvement and final alignment has been approved by the appropriate authorities.

~~(i)~~ (j) "Interstate highway" means any highway at any time officially designated as a part of the national system of interstate and defense highways by the secretary of transportation and approved by the appropriate authority of the federal government.

~~(j)~~ (k) "Local zoning authority" means an incorporated city or a county which is authorized by law to zone areas within its jurisdiction and which has an active zoning authority.

~~(k)~~ (l) "Main traveled way" means the traveled way of a highway on which through traffic is carried. On a divided highway, the traveled way of each of the separate roadways for traffic in opposite directions is a main traveled way, but said such term does not include such facilities as frontage roads, turning roadways or parking areas.

~~(l)~~ (m) "Maintain" means to allow-to-exist keep in a state of continuing existence. A sign must remain substantially the same as it was when permitted on the effective date of compliance with state law. Customary maintenance of a sign includes only change of message, replacing electrical wiring and bulbs, painting of the face and structure, clearing of vegetation on the parcel the sign is located, reinforcing the structure and repairing the apron or catwalks or any addition or enhancements to safety equipment on structures including safety cables, railings and other modifications necessary to meet current safety standards. An increase in dimension, a change in dimension, any change in location, increase in height or the addition of lighting does not constitute customary maintenance. Additional

maintenance activities, other than customary maintenance, require a new sign permit.

~~(m)~~ (n) "Primary highway" means any highway, other than an interstate highway, that was part of the federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the national highway system.

~~(n)--"Roadway"--means--a--roadway--as--defined--by--K.S.A.--8-1459, and--amendments--thereto.~~

(o) "Safety rest area" means an area or site established and maintained within or adjacent to the highway right-of-way, which area is under public supervision or control and for the convenience of the traveling public.

(p) "Sign" or "outdoor advertising device" means any outdoor sign structure, display, light, device, notice, bulletin, figure, painting, drawing, message, placard, poster, billboard, vehicle or other thing which is designed, intended or used to advertise or inform, any part of the advertising or informative contents of which is ~~located within an adjacent area, and is~~ visible from any place on the main traveled way or any portion of an interstate or primary highway.

(q) "Sign facing" means and includes a sign display or displays at the same location and facing the same direction.

(r) "Sign display" means a single panel or part of the sign, including trim and background, which contains a message or messages.

(s) "Sign structure" means and includes all components of the sign, which may include poles, bracings, lateral supports, vehicles, displays and other materials of every kind and nature used to support a facing or facings on which advertising is placed.

~~(q)~~ (t) "Traveled way" means the portion of a roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

~~(r)~~ (u) "Unzoned commercial or industrial area" means an ~~area which is not zoned by state or local law, ordinance or resolution, and on which there is located one or more permanent~~

structures devoted to a commercial or industrial activity, or on which a commercial or industrial activity is actually conducted, whether or not a permanent structure is located thereon, and the area along the highway extending outward 600 feet from and beyond the edge of such activity on both sides of the highway except that the unzoned area shall not include land on the opposite side of a freeway or interstate highway from the commercial or industrial activity establishing the unzoned commercial or industrial area, nor shall it include land on the opposite side of any other primary highway, which land is deemed scenic by an appropriate agency of the state. All measurement of distances shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the commercial or industrial activities, not from the property lines of the activities, and shall be along or parallel to the edge of the highway pavement.

Such term shall not include any area which is within 500 feet of any of the following: Public park, garden, recreation area or forest preserve, church, school, any public museum or historical monument, any safety rest or recreation area which is publicly owned, controlled and maintained pursuant to section 319 of title 23 of the United States code, or any sanitary or other facility for the accommodation of the motorist which is publicly owned, controlled and maintained pursuant to section 319 of title 23 of the United States code. Nor shall such term include any area which is within 500 feet of any strip of land, an interest in which has been acquired by the state of Kansas for the restoration, preservation or enhancement of scenic beauty, and which is publicly controlled and maintained pursuant to section 319 of title 23 of the United States code an area which is not zoned by state or local law, regulation or ordinance, which is within 660 feet of the nearest edge of the right-of-way of the controlled area, and on which there is located one or more permanent structures devoted to a commercial or industrial activity or on which a commercial or industrial activity is actually conducted, whether or not a permanent structure is

located thereon, which meets all the requirements specified in subsection (h) of K.S.A. 68-2234, and amendments thereto.

~~(s)~~ (v) "Visible" means capable of being seen without visual aid by a person of normal visual acuity.

~~(t)~~ (w) "Zoned commercial or industrial areas" means those areas which are comprehensively zoned for business, industry, commerce or trade pursuant to a state or local zoning ordinance or resolution or an area which is zoned for business, industry, commerce or trade pursuant to a state or local zoning ordinance or regulation. Local zoning action must be taken pursuant to the state's zoning enabling statute or constitutional authority in accordance therewith. Zoning which is not part of comprehensive zoning or which is created primarily to permit advertising devices or structures shall not be recognized as valid zoning for purposes of the Kansas highway advertising control act and the rules and regulations promulgated thereunder, unless there actually exists a commercial or industrial activity as defined under subsection (d) of K.S.A. 68-2232, and amendments thereto.

~~(u)~~ (x) "Secretary" means the secretary of transportation.

(y) "Vegetation control" means a program authorized hereunder, providing for the control of vegetation on state rights-of-way which shall be of benefit to the state as well as providing assistance to sign owners. Vegetation control is recognized as part of the maintenance of the state's highway right-of-way as it relates to safety and other highway operations. The Secretary shall adopt policies and procedures for the creation of a vegetation control program within 12 months of the effective date of this act.

Sec. 2. K.S.A. 68-2233 is hereby amended to read as follows: 68-2233. After March 31, 1972, and subject to the provisions of K.S.A. 68-2237, and amendments thereto, no sign shall be erected or maintained in an adjacent area, except the following: (a) Directional and ~~other~~ official signs, including, but not limited to, signs pertaining to natural wonders or scenic or historical attractions, which are required or authorized by law and which ~~comply--with--regulations--which--shall--be--promulgated--by--the~~

~~secretary-of-transportation-relative-to-their-lighting-size-number-spacing-and-such-other-requirements-as-may-be-appropriate-to-implement-the-provisions-of-this-act: Provided~~ That such regulations shall not be inconsistent with, nor more restrictive than, such national standards as may be promulgated from time to time by the secretary of the department of transportation of the United States, pursuant to subsection (c) of section 131 of title 23 of the United States code shall conform to rules and regulations promulgated by the secretary consistent with national policy, except that no such sign or notice shall be erected until an approved sign application and permit is obtained as provided for in K.S.A. 68-2236, and amendments thereto. Directional and official signs shall be required to obtain a license but such signs are exempt from payment of the fees as required under subsection (c) of K.S.A. 68-2236, and amendments thereto;

(b) signs advertising the sale or lease of property upon which they are located, ~~except that there shall not be more than one (1) such sign which is visible to traffic proceeding in any one direction on any one interstate or primary highway;~~

(c) on-premise signs advertising activities conducted on the property on which they are located, including, without limiting the generality of the foregoing, goods grown, produced, sold, stored, manufactured, processed or mined thereon; services rendered thereon; and entertainment provided thereon;

(d) ~~Signs erected in business areas on or before March 31, 1972, and~~

~~(e) Signs which are to be erected in business areas and which will comply when erected with the provisions of K.S.A. 68-2234~~ nonconforming signs or advertising devices lawfully in existence on March 31, 1972, or deemed to be nonconforming, provided that no such sign shall be maintained without a license as provided for in K.S.A. 68-2236, and amendments thereto;

(e) conforming signs or advertising devices erected in business areas and which comply with the provisions of K.S.A. 68-2234, and amendments thereto. No such sign or advertising device shall be erected until a permit is obtained as provided in

K.S.A. 68-2236, and amendments thereto;

(f) conforming signs or advertising devices legally erected after March 31, 1972, which no longer comply with spacing, size or zoning requirements of K.S.A. 68-2234, and amendments thereto, because of a change in the law, provided that no such sign shall be maintained without a license as required by K.S.A. 68-2236, and amendments thereto. Such signs shall be considered legal conforming signs with grandfather status;

(g) in addition to the limitations contained in this section, in order to further the purposes to promote the reasonable, orderly and effective display of outdoor advertising devices along highways adjacent to scenic and historical areas, while protecting the public investment in these highways and promoting safety and recreational value of public travel and to preserve natural beauty, no advertising sign, except as permitted under subsections (a), (b) or (c) shall be erected adjacent to any highway which is either:

(1) A scenic highway or scenic byway designated by the secretary;

(2) within 1,000 feet of the boundary line of a Kansas state park, a national park, a state or national wildlife refuge;

(3) within 500 feet of any of the following: Public park, garden, recreation area, forest preserve, church, school, any public museum or historical monument, any safety rest or recreation area which is publicly owned, controlled and maintained pursuant to 23 U.S.C. 319 or any sanitary or other facility for the accommodation of the motorist which is publicly owned, controlled and maintained pursuant to 23 U.S.C. 319; or

(4) within 500 feet of any strip of land, an interest in which has been acquired by the state of Kansas for the restoration, preservation or enhancement of scenic beauty and which is publicly controlled and maintained pursuant to 23 U.S.C. 319.

Sec. 3. K.S.A. 68-2234 is hereby amended to read as follows: 68-2234. After March 31, 1972, and subject to ~~subsection-(e)~~ the provisions of K.S.A. 68-2233, and amendments thereto, and to

subsection (f), signs which are to be erected in a business area shall comply with the following standards: (a) General. Signs shall not be erected or maintained which:

(1) Imitate or resemble any official traffic sign, signal or device; or

(2) are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

(b) Configuration and size. (1) Signs shall not be erected with sign faces which exceed 30 feet in height, 60 feet in length or ~~±7200~~ 900 square feet in area, per facing, including border, trim and embellishments, but not including base or apron, supports, and other structural members;

(2) the maximum size limitations shall apply to each sign facing;

(3) ~~two signs~~ sign displays not exceeding ~~600~~ 450 square feet each may be erected in a facing, side by side or "double decked," and double-faced, back-to-back or V-type signs shall be permitted and shall be treated as one structure with a maximum area of ~~±7200~~ 900 square feet permitted for each side or facing. To be classified as "back-to-back" there must not be more than 15 feet between structures or faces, to allow for crossbracing;

(4) the area of any sign structure shall be measured by the smallest square, rectangle, circle or combination thereof which will encompass the area ~~affected~~ of the sign display or displays;

(5) the height of any portion of the sign structure, excluding cutouts or extensions, as measured vertically from the adjacent edge of the road grade of the main traveled way shall not exceed 50 feet;

(6) cutouts or extensions shall be permitted on legal conforming signs at a size not to exceed 30% of the size of the main display area, with a maximum extension of five feet along the top edge, two feet along the sides and 1 1/2 feet along the bottom of the main display area. Cutouts or extensions shall not be permitted where the configuration and size requirements of this subsection will be exceeded.

(c) Spacing. (1) Signs shall conform to all applicable building codes and ordinances of the city, county or state, whichever is applicable by reason of the locations of the signs;

(2) signs shall not be erected or maintained in such a manner as to obscure or otherwise physically interfere with an official traffic sign, signal or device or to obstruct or physically interfere with a driver's view of approaching, merging or intersecting traffic;

~~(3) Signs--visible--from--a--primary--highway--shall--not--be erected--within--the--limits--of--a--city--less--than--100--feet,--and outside--the--limits--of--a--city--less--than--300--feet,--of--another--sign on--the--same--side--of--the--highway.~~

~~(4)--Signs--visible--from--a--freeway--or--interstate--highway--shall not--be--erected--within--500--feet--of--another--sign--on--the--same--side of--the--highway,--and--outside--the--limits--of--a--city,--no--sign--shall be--located--adjacent--to--or--within--500--feet--of--an--interchange, intersection--at--grade--or--a--safety--rest--area,--with--such--distance measured--along--the--freeway--or--interstate--highway--from--the--nearest point--of--the--beginning--or--ending--of--pavement--widening--at--the--exit from--or--entrance--to--the--main--traveled--way. except for official and on-premise signs, as defined in 23 U.S.C. 131(c) and as provided for in K.S.A. 68-2233, and amendments thereto, any signs or sign structures visible from any primary highway without fully controlled access:~~

~~(A) Shall not be spaced less than 300 feet apart outside of incorporated cities;~~

~~(B) shall not be spaced less than 200 feet apart within incorporated cities;~~

~~(4) any signs or sign structures visible from any interstate highway or freeway with fully controlled access:~~

~~(A) Shall not be spaced less than 500 feet apart, except for official and on-premise signs, as defined in 23 U.S.C. 131(c), and as provided in K.S.A. 68-2233, and amendments thereto;~~

~~(B) outside the corporate limits of cities, shall not be located within 500 feet of an interchange, feeder, intersection at grade, safety rest area or information center regardless of~~

whether the main traveled way is within or outside the city limits. The 500 feet spacing shall be measured from the point at which the pavement widens and the direction of measurement shall be along the edge of pavement away from the interchange, collector, intersection at grade, safety rest area or information center. In those interchanges where a quadrant does not have a ramp, the 500 feet for the quadrant at the edge of the intersection is located at the edge of the intersection;

(5) the minimum distance between two signs prescribed by paragraphs (3) and (4) of this subsection shall be measured along the nearest edge of the pavement between points directly opposite the signs along each the same side of the highway. Such minimum distance shall not apply to signs described by subsection (a), (b) or (c) of K.S.A. 68-2233, and amendments thereto, nor shall such signs be counted or be used in measuring distances for the purpose of determining compliance with the spacing requirements of this subsection;

(6) the minimum distances between two signs prescribed by paragraphs (3) and (4) of this subsection shall not apply where such signs are separated by a building, structure, roadway or other obstruction which prevents a view of both signs at the same time by traffic proceedings on any one highway; and

(7) nothing in this subsection shall be construed as preventing the erection of double-faced, back-to-back or V-type signs with a maximum of two signs-per sign displays per sign facing, as permitted by subsection (b). Nothing in this subsection shall prevent the owner of a single face sign to change the position of the sign face to a different or opposite direction of traffic flow so long as an additional face or additional square feet are not added to the sign structure. No such change may be affected until approval is granted by the department.

(d) Lighting. (1) Signs shall not be erected which contain, include or are illuminated by any flashing, intermittent, revolving or moving light, except those giving public service information such as, but not limited to, time, date, temperature,

weather or news; steadily burning lights in configuration of letters or pictures are not prohibited;

(2) signs shall not be erected or maintained which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of any interstate or primary highway and are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle or to otherwise interfere with any driver's operation of a motor vehicle; and

(3) signs shall not be erected or maintained which are so illuminated that they obscure any official traffic sign, device or signal, or imitate or may be confused with any official traffic sign, device or signal.

(e) Automatic changeable facing signs. (1) Automatic changeable facing signs shall be permitted within adjacent or controlled areas under the following conditions:

(A) The sign does not contain or display flashing, intermittent or moving lights, including animated or scrolling advertising;

(B) the changeable facing remains in a fixed position for at least eight seconds;

(C) if a message is changed electronically, it must be accomplished within an interval of two seconds or less;

(D) the sign is not placed within 1,000 feet of another automatic changeable facing sign on the same side of the highway, with the distance being measured along the nearest edge of the pavement and between points directly opposite the signs along each side of the highway;

(E) if the sign is a legal conforming structure it may be modified to an automatic changeable facing sign upon compliance with these standards and approval by the department. A nonconforming structure shall not be modified to create an automatic changeable facing sign;

(F) if the sign contains a default design that will freeze the sign in one position if a malfunction occurs; and

(G) if the sign application meets all other permitting

requirements.

(2) The outdoor advertising license shall be revoked for failure to comply with any provision in this subsection.

~~(e)~~ (f) Application to local zoning authorities. Nothing in article 22 of chapter 68 of Kansas Statutes Annotated, and amendments thereto, shall be construed as prohibiting a local zoning authority from controlling the erection, maintenance, size, spacing and lighting of signs in all areas within its jurisdiction by adopting standards which may be consistent with, or more or less restrictive than the highway advertising control ~~act of 1972, and any acts amendatory thereof or supplemental~~ and amendments thereto, except that along interstate highways, the size and spacing requirements of subsections (b) and (c) of K.S.A. 68-2234, and amendments thereto. The standards adopted by a local zoning authority shall include the regulation of size, of lighting and of spacing of all such signs and shall restrict the erection of new signs, other than signs described by subsections (a), (b) and (c) of K.S.A. 68-2233, and amendments thereto, to zoned commercial or industrial areas.

(g) Prohibition against zoning to permit outdoor advertising. Zoning action which is not part of comprehensive zoning and is created primarily to permit outdoor advertising structures, is not recognized as zoning for purposes of this act.

(h) Unzoned commercial or industrial area qualifications for signs.

(1) To qualify an area as unzoned commercial or industrial for the purpose of outdoor advertising control, one commercial or industrial activity shall meet all of the following criteria prior to submitting an outdoor advertising permit application:

(A) The activity shall maintain all necessary business licenses as may be required by applicable state, county or local law or ordinances;

(B) the property used for the activity shall be listed for ad valorem taxes with the county and municipal taxing authorities as required by law;

(C) the activity shall be served by utilities, power,

telephone, water and sewer or septic and well;

(D) the activity shall have direct or indirect vehicular access;

(E) the activity must be visible from, and located within 660 feet of the nearest edge of the right-of-way of the controlled route;

(F) the commercial or industrial activity must be in operation for a period of 12 months prior to the date of submitting an application for an outdoor advertising permit and license;

(G) the activity shall be in operation for at least nine months per year; and

(H) the owner or employee shall be present at the site for 20 hours per week;

(2) the unzoned area shall include areas on both sides of any two-lane highway, but shall be limited to land on the same side as the commercial or industrial activity on any highway with four or more traffic lanes. All measurements shall begin from the outer edges of regularly used buildings, parking lots, storage or processing areas of the commercial or industrial activity, not from the property line of the activity and shall be along the nearest edge of the main traveled way of the controlled route. The proposed sign location must be within 600 feet of the commercial or industrial activity.

Sec. 4. K.S.A. 68-2235 is hereby amended to read as follows: 68-2235. The secretary of transportation is hereby authorized to enter into an agreement with the secretary of the department of transportation of the United States government for the purpose of ~~implementing the provisions of this act, but such agreement shall not be inconsistent with the provisions of this act, the provisions of the federal highway beautification act of 1965, and any amendments thereto, or with customary uses and zoning principles and standards which hold and govern in this state~~ controlling outdoor advertising in areas adjacent to the interstate and federal-aid primary highway systems or the national highway system in accordance with 23 U.S.C. 131 (b), 23

U.S.C. 104 and 23 C.F.R. part 750.

Sec. 5. K.S.A. 68-2236 is hereby amended to read as follows:
 68-2236. (a) ~~From and after March 31, 1972, no person shall own or maintain outdoor advertising, except signs described in subsections (b) and (c) of K.S.A. 68-2233, without having a license to do so, which license shall be issued by the secretary of transportation. Provided, That any nonprofit religious, civic or educational organization which only erects signs advertising the existence of and meeting dates and locations of such organization shall be exempt from such licensing requirements. Application for such license shall be made to the secretary of transportation on forms furnished by the secretary and shall contain such information as the secretary shall reasonably require. Each application and each renewal of the license shall be accompanied by a fee of ten dollars (\$10) for each county in which the proposed licensee operates, but not to exceed two hundred fifty dollars (\$250). Such licenses shall be valid for a period of one (1) year from the date they are issued and shall be renewed annually upon payment of the prescribed fee. The secretary of transportation shall promulgate reasonable rules and regulations relating to performance bond or liability insurance, or both, to be required as a condition of obtaining and holding a license.~~

~~(b) From and after March 31, 1972, no sign, other than signs described in subsection (b) and (c) of K.S.A. 68-2233, may be erected or maintained in an unzoned commercial or industrial area located outside the corporate limits of any city without first obtaining a permit therefor from the secretary of transportation, or in such an area within the corporate limits of a city without first obtaining a permit therefor from the authority designated by the governing body of such city. An application for a permit shall be on a uniform form provided by the secretary and made available to counties and cities, and shall contain such information as the secretary may reasonably require. Within ten (10) days after receipt of an application containing all required information in due form and appropriately executed, and upon~~

payment--of--a--fee--of--five--dollars--(\$5)--for--each--such--sign--the secretary--or--the--city--authority--as--the--case--may--be--shall--issue a--permit--to--the--applicant--for--the--erection--or--maintenance--of--the sign--if--such--sign--is--consistent--with--the--provisions--of--this--act: Provided, That the payment of such fee shall not be required for any signs advertising the existence of and meeting dates and locations of any nonprofit religious, civic or educational organization. Such permit shall be transferable and shall be valid for as long as the sign or any replacement of it exists, if the sign is not changed as to size or lighting. A copy of each application to and permit issued by the city authority shall be filed with the secretary of transportation by the city authority. Unless otherwise provided in this section, no person, firm or corporation shall construct, erect, operate, use or maintain any advertising signs, displays or devices in this state without first obtaining a sign permit and a sign license from the department. Sign permits shall not be issued until a sign permit application has been submitted to and approved by the department. Signs measuring eight square feet or less with a message advertising the existence, meeting dates and location of nonprofit, religious, civic or educational organizations shall not be required to obtain a sign permit or a license. Signs as described in subsections (b) and (c) of K.S.A. 68-2233, and amendments thereto, shall not be required to obtain a sign permit or a license.

(b) Sign permit application. From and after June 30, 2006, no signs, displays or devices except as described in subsection (a) shall be erected without first applying for a sign permit from the department. Sign applications shall be submitted on forms provided by the department. Incomplete applications shall be denied. A nonrefundable processing fee of \$250 shall be submitted with each permit application for new directional and official signs as identified in subsection (a) of K.S.A. 68-2233, and amendments thereto, whether or not they advertise nonprofit organizations or businesses. A nonrefundable processing fee of \$250 shall be submitted with each permit application for new

conforming signs identified in subsection (e) of K.S.A. 68-2233, and amendments thereto. The department shall approve the sign permit application within 60 days after receiving the application from the applicant only if the application for the new sign permit complies with the provisions of this act. Upon the approval of a sign permit application, the applicant will be granted a sign permit and a sign license as described in subsection (c) and shall erect the sign described in the application within 180 days from the date of the granting of the sign permit. Failure to obtain a permit and erect the sign described in the application within 180 days of the date of the granting of the permit, shall render the permit and license null and void. Extensions may be granted by the department if they are requested by the applicant in writing prior to the 180 day deadline. All signs, displays or devices erected during the 180 day period and any extensions granted shall comply with all information submitted in the sign permit application. Providing false information on the sign application shall be sufficient grounds to deny or revoke the application or permit.

(c) Sign permits; sign license. (1) From and after June 30, 2006, no sign, display or advertising device except signs advertising nonprofit organizations or nonprofit businesses as described in subsection (a) shall be erected without first obtaining a sign permit from the department. No sign permit shall be issued without an approved current sign permit application as described in subsection (b);

(2) a sign license shall be issued along with a sign permit and such license shall be valid for a period of two years from the date it was issued unless revoked for noncompliance with this act. Before the expiration of a sign license, the sign owner shall be required to renew the license. Biennial license renewal fees for a sign structure shall be determined by the size of the advertising per sign structure. Biennial license renewal fees for sign structures are as follows:

<u>Fee</u>	<u>Per sign structure</u>
<u>\$20</u>	<u>0 square feet to 32 square feet</u>
<u>\$75</u>	<u>33 square feet to 300 square feet</u>
<u>\$150</u>	<u>301 square feet or more</u>

License fees will be phased in over a two-year time period for signs listed in the department's sign inventory database as of December 31, 2006. Owners of signs so identified shall be required to pay 50% of their total fees on or before their anniversary date in 2007 and 50% in 2008. Sign owners shall be required to pay the full fee in 2009 and thereafter. Sign owners who erect signs after December 31, 2006, shall be required to pay the entire fees as described in this section;

(3) each license shall be transferable and shall be valid for a period of two years from the last day of the month the license was first granted as long as the sign is maintained and if the sign is not changed as to location, size or lighting. Within 60 days prior to the expiration date of the license, the department will provide the sign owner with a license renewal form for each sign requiring a license. Sign owners shall be required to complete the renewal form and submit the renewal fee as required in this section. A late fee of \$50 shall be assessed for each sign renewal license form received 30 days after the expiration of the license. Where applicable, any advertising sign display or device not having a current permit and a current license on file shall be in violation of this act and shall be subject to removal with the cost assessed to the sign owner after the sign owner has been given 30 days notice;

(4) if outdoor advertising is under construction and the department determines that a permit and license has not been issued for the advertising sign display or device, the department may require that all work on the advertising display or device cease until the owner of the outdoor advertising obtains a sign permit and a license.

(d) Existing signs; unlisted signs; license; fees. (1) On or before December 31, 2007, sign owners with existing signs that have been assigned a sign identification number as part of the department's sign inventory database as of June 30, 2006, will be issued a sign license for each sign. The department will issue a license for each sign currently in its inventory and for each other sign submitted by a sign owner on or before December 31,

2006, providing that the sign complies with this act. Sign owners shall be required to submit documentation for all signs not currently listed in the department's sign inventory database as of June 30, 2006. Sign owners will not be assessed a processing fee for signs which are listed in the department's sign inventory database as of June 30, 2006, nor will they be assessed a processing fee for signs submitted to the department on or before December 31, 2006. Any sign discovered after December 31, 2006, and not listed in the department's sign inventory database shall be considered unauthorized and illegal and shall be removed at the expense of the sign owner;

(2) within 30 days prior to the stated anniversary date, the department will provide sign owners with a license renewal form for each licensed sign. Sign owners shall be required to complete the renewal form for each sign as required in subsection (c). The department will renew the license for each existing sign upon receipt of the completed renewal form and the required fees on or before the stated anniversary date. A license shall be valid for two years from the stated anniversary date. A late fee shall be assessed for each license renewal form received after the stated anniversary date. Where applicable, any existing sign not having a current license, as identified in the department's sign database, shall be in violation of this act and shall be subject to removal with the costs assessed to the sign owner after the sign owner has been given a 30-day notice.

(e) From and after March 31, 1972, all signs, or the structures on which they are displayed, shall have stated thereon the name of the owner thereof.

(f) The secretary shall remit all moneys received by or for the secretary under the provisions of this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund.

Sec. 6. K.S.A. 68-2240 is hereby amended to read as follows:
68-2240. ~~From-and-after-March-31, 1972, any--outdoor--advertising~~

authorized under K.S.A. 68-2233 and 68-2234 which does not conform to the standards and requirements prescribed or authorized by this act, or does not comply with any authorized exceptions thereto, and any outdoor advertising prohibited by this act and not subject to compensation under other terms of this act, shall be subject to removal by the secretary of transportation. The secretary shall give notice by restricted mail to the owner of the sign, if known, or to the advertiser shown on the sign, ordering him or her to cause the outdoor advertising to comply with the provisions of this act or to remove the prohibited outdoor advertising. If the owner of the sign is known and fails to act within ninety (90) days after mailing of the notice, the department of transportation shall remove the outdoor advertising at the expense of the owner of the sign, if known, and if not, at the expense of the advertiser shown on the sign. (a) Any advertising structure erected or maintained adjacent to the right-of-way of the interstate or primary highway system after the effective date of this act as determined by K.S.A. 68-2231 through 68-2244, and amendments thereto, in violation of the provisions of this section or rules and regulations adopted by the secretary, or maintained without a permit for construction and a current license shall be considered illegal and shall be subject to removal. The department or its agent shall give 60-days notice by certified mail to the owner of the illegal sign, except that the department shall give 10-days notice to the owner of unlawful portable outdoor advertising located on vehicles or stands to remove such advertising structure or make it comply with the provisions of this act. If such owner is unknown or cannot be reasonably ascertained, the department shall conclude that the advertiser shown on the sign is the owner of the sign. The department or its agents shall have the right to remove the illegal advertising structure, at the expense of the owner, if the owner fails to remove the advertising structure or to make it comply with the provisions of this act within the required period cited in this section. After giving a 10-day notice to the sign owner and landowner, the

department or its agents may enter upon private property for the purpose of removing the illegal advertising structure prohibited by this act or by the rules and regulations adopted by the secretary without civil or criminal liability. The cost of removing the advertising structure, whether by the department or its agents, shall be assessed against the owner of the illegal structure.

(b) A sign owner is prohibited from repairing and erecting a legal, non-conforming sign which sustains damage in excess of 60% of its replacement cost. This prohibition includes signs which have been damaged or destroyed by natural causes. An exception is made for those signs which were destroyed by vandalism or other criminal or tortuous acts.

(c) A sign is considered a new sign and requires a new sign license if the sign is abandoned, left blank or remains dilapidated for a period of 12 months. Signs faces displaying public service announcements or displaying a "for rent" notice will not be considered abandoned.

(d) Any person, firm, corporation or association, placing, erecting or maintaining advertising structures, signs, displays or devices along the interstate system or primary system in violation of this act or rules and regulations adopted by the secretary shall not be recognized as advertisement for outdoor purposes and therefore constitutes a public nuisance subject to removal as provided by law.

(e) Right to Appeal. Sign owners who are required to remove a sign determined to be in noncompliance of this act may appeal this decision to the secretary of transportation.

Sec. 7. K.S.A. 68-2243 is hereby amended to read as follows:
68-2243. ~~This--act~~ The provisions of K.S.A. 68-2231 through 68-2244, and amendments thereto, and section 8, and amendments thereto, shall be known and may be cited as the "highway advertising control act of 1972."

New Sec. 8. The secretary of transportation is hereby authorized to adopt such rules, regulations or internal policies the secretary deems necessary for the purpose of carrying out the

provisions of this act including the adoption of rules and regulations or internal policies regulating the use of new technology in outdoor advertising as allowed under federal regulations for federal-aid primary highways as of June 1, 1991, and all highways designated as part of the national highway system by the national highway system designation act of 1995 and those highways subsequently designated.

Sec. 9. K.S.A. 68-2232, 68-2233, 68-2234, 68-2235, 68-2236, 68-2240 and 68-2243 are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.

Proposed Amendment to SB 253

New Sec. . (a) The secretary of transportation shall compile and maintain a current listing of all signs that are available for the purposes of increasing tourism or economic development. The listing shall contain a description of the program and the requirements for obtaining a sign under such program.

(b) The secretary of transportation shall publish the information required under subsection (a) at least annually.

not be recognized as valid zoning for purposes of the Kansas highway advertising control act and the rules and regulations promulgated thereunder, unless there actually exists a commercial or industrial activity as defined under subsection (d) of K.S.A. 68-2232, and amendments thereto.

(~~tt~~) (x) "Secretary" means the secretary of transportation.

(y) "Vegetation control" means a program authorized hereunder, providing for the control of vegetation on state rights-of-way which shall be of benefit to the state as well as providing assistance to sign owners. Vegetation control is recognized as part of the maintenance of the state's highway right-of-way as it relates to safety and other highway operations. The Secretary shall adopt policies and procedures for the creation of a vegetation control program within 12 months of the effective date of this act.

Sec. 2. K.S.A. 68-2233 is hereby amended to read as follows: 68-2233. After March 31, 1972, and subject to the provisions of K.S.A. 68-2237, and amendments thereto, no sign shall be erected or maintained in an adjacent area, except the following: (a) Directional and ~~other~~ official signs, including, but not limited to, signs pertaining to natural wonders or scenic or historical attractions, **churches or rural businesses**, which are required or authorized by law and which ~~comply with regulations which shall be promulgated by the secretary of transportation relative to their lighting, size, number, spacing and such other requirements as may be appropriate to implement the provisions of this act. *Provided*, That such regulations shall not be inconsistent with, nor more restrictive than, such national standards as may be promulgated from time to time by the secretary of the department of transportation of the United States, pursuant to subsection (c) of section 131 of title 23 of the United States code~~ shall conform to rules and regulations promulgated by the secretary consistent with national policy, except that no such sign or notice shall be erected until an

approved sign application and permit is obtained as provided for in K.S.A. 68-2236, and amendments thereto. Directional and official signs shall be required to obtain a license but such signs are exempt from the payment of fees as set forth in subsection (c) of K.S.A. 2236, and amendments thereto;

(b) signs advertising the sale or lease of property upon which they are located; ~~except that there shall not be more than one (1) such sign which is visible to traffic proceeding in any one direction on any one interstate or primary highway;~~

(c) on-premise signs advertising activities conducted on the property on which they are located, including, without limiting the generality of the foregoing, goods grown, produced, sold, stored, manufactured, processed or mined thereon; services rendered thereon; and entertainment provided thereon;

(d) ~~Signs erected in business areas on or before March 31, 1972; and~~

~~—— (e) Signs which are to be erected in business areas and which will comply when erected with the provisions of K.S.A. 68-2234~~ nonconforming signs or advertising devices lawfully in existence on March 31, 1972, or deemed to be nonconforming, provided that no such sign shall be maintained without a license as provided for in K.S.A. 68-2236, and amendments thereto;

(e) conforming signs or advertising devices erected in business areas and which comply with the provisions of K.S.A. 68-2234, and amendments thereto. No conforming signs shall be erected or maintained beyond 660 feet of the nearest edge of the right-of-way of the interstate or primary highway systems in this state outside of the limits of any city or town so as to be visible and intended to be read from the main traveled way. No such sign or advertising device shall be erected until a permit is obtained as provided in K.S.A. 68-2236, and amendments thereto;

displayed, shall have stated thereon the name of the owner thereof.

Sec. 6. K.S.A. 68-2240 is hereby amended to read as follows: 68-2240. ~~From and after March 31, 1972, any outdoor advertising authorized under K.S.A. 68-2233 and 68-2234 which does not conform to the standards and requirements prescribed or authorized by this act, or does not comply with any authorized exceptions thereto, and any outdoor advertising prohibited by this act and not subject to compensation under other terms of this act, shall be subject to removal by the secretary of transportation. The secretary shall give notice by restricted mail to the owner of the sign, if known, or to the advertiser shown on the sign, ordering him or her to cause the outdoor advertising to comply with the provisions of this act or to remove the prohibited outdoor advertising. If the owner of the sign is known and fails to act within ninety (90) days after mailing of the notice, the department of transportation shall remove the outdoor advertising at the expense of the owner of the sign, if known, and if not, at the expense of the advertiser shown on the sign. (a) Any advertising structure erected or maintained adjacent to the right-of-way of the interstate or primary highway system after the effective date of this act as determined by K.S.A. 68-2231 through 68-2244, and amendments thereto, in violation of the provisions of this section or rules and regulations adopted by the secretary, or maintained without a permit for construction and a current license shall be considered illegal and shall be subject to removal. The department or its agent shall give 60-days notice by certified mail return receipt requested, or by personal service to the owner of the illegal sign and the landowner, if different from the sign owner, except that the department shall give 10-days notice to the owner of unlawful portable outdoor advertising located on vehicles or stands to remove such advertising structure or make it comply with the provisions of this act. Such notice shall contain a statement that the sign owner has the right to appeal the removal of such sign in~~

accordance with the Kansas administrative procedure act and may appeal that decision to the district court. If such owner is unknown or cannot be reasonably ascertained, the department shall conclude that the advertiser shown on the sign is the owner of the sign. Unless the sign owner appears in accordance with the provisions of subsection (e), the department or its agents shall have the right to remove the illegal advertising structure, at the expense of the owner, if the owner fails to remove the advertising structure or to make it comply with the provisions of this act within the required period cited in this section. If no appeal by the sign owner has been filed, after giving a 10-day notice to the sign owner and landowner, the department or its agents may enter upon private property for the purpose of removing the illegal advertising structure prohibited by this act or by the rules and regulations adopted by the secretary without civil or criminal liability. The cost of removing the advertising structure, whether by the department or its agents, shall be assessed against the owner of the illegal structure.

(b) A sign owner is prohibited from repairing and erecting a legal, non-conforming sign which sustains damage in excess of 60% of its replacement cost. This prohibition includes signs which have been damaged or destroyed by natural causes. An exception is made for those signs which were destroyed by vandalism or other criminal or tortuous acts.

(c) A sign is considered a new sign and requires a new sign license if the sign is abandoned, left blank or remains dilapidated for a period of 12 months. Signs faces displaying public service announcements or displaying a "for rent" notice will not be considered abandoned.

(d) Any person, firm, corporation or association, placing, erecting or maintaining advertising structures, signs, displays or devices along the interstate system or primary system in violation of this act or rules and regulations adopted by the secretary shall not be recognized as advertisement for

outdoor purposes and therefore constitutes a public nuisance subject to removal as provided by law.

(e) Right to Appeal. (1) Sign owners who are notified under subsection (g) to remove a sign determined to be in noncompliance of this act may appeal such order to the secretary of transportation. Hearings under this subsection shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(2) Any party aggrieved by the order of the secretary may appeal such order to the district court in accordance with the provisions of the act for judicial review and civil enforcement of agency actions.

Sec. 7. K.S.A. 68-2243 is hereby amended to read as follows: 68-2243. ~~This act~~ The provisions of K.S.A. 68-2231 through 68-2244, and amendments thereto, and section 8, and amendments thereto, shall be known and may be cited as the "highway advertising control act of 1972."

New Sec. 8. The secretary of transportation is hereby authorized to adopt such rules, regulations or internal policies the secretary deems necessary for the purpose of carrying out the provisions of this act including the adoption of rules and regulations or internal policies regulating the use of new technology in outdoor advertising as allowed under federal regulations for federal-aid primary highways as of June 1, 1991, and all highways designated as part of the national highway system by the national highway system designation act of 1995 and those highways subsequently designated.

Sec. 9. K.S.A. 68-2232, 68-2233, 68-2234, 68-2235, 68-2236, 68-2240 and 68-2243 are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.



*Kansas
Licensed
Beverage
Association*

President
James "Jim" Fager

Vice Presidents
Tammy Davis
Tom Intfen
Robert Farha
Jim Hendricks
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Testimony on SB-554, February 122, 2006
Senate Transportation Committee

Mr. Chairman, and Senators of the Committee,

I am Philip Bradley representing the Kansas Licensed Beverage Assn., the men and women, in the hospitality industry, who own and manage bars, clubs, caterers, restaurants, breweries and hotels where beverage alcohol are served. Thank you for the opportunity to submit testimony today.

We support SB-554 and urge you to pass it with a favorable recommendation.

In 2003 the legislature passed SB-159, establishing the use of Vertical DL and ID cards. This action requested and advocated by the KLBA has assisted in our mutual goal of assuring that underage persons do not get access to beverage alcohol in Kansas. SB-159 passed with huge support (Senate 39-0, House 121-2) and was signed into law. Since then this statute has been implemented with great success. Many other states use the same Vertical DL/ID process. ***Unfortunately there is one vital tool missing in our law that other states use to attain our mutual goal.*** Although Vertical ID cards expire on the 21st birthday, this was left out of the DL statute. This bill would correct that fatal flaw.

The reason to have a differently appearing card for those under 21 is to reduce the accessibility of alcohol to underage persons. This bill helps in several ways; 1) immediate and obvious recognition that this is an underage card; 2) that underage persons could not "pass on" or sell their cards to others when they become 21 and replace their card; 3) assuring that no person over 21 has a valid vertical card.

We now have a DL that is extremely difficult to counterfeit and easier than ever to verify authenticity. *However that is all lost if someone is using a real DL to obtain alcohol illegally.* The appearance of our youth varies greatly from 15 to 21 years of age. ***If you pass this bill anyone using a vertical ID will either be underage or using an expired card and this will assist all of us in preventing underage access to alcohol.***


Please note that we already require this for Kansas issued I.D. cards as outlined in KSA 8-1329. (Statute below)

We have worked with the KDOR, Drivers License Bureau and appreciate their help. There may be minor adjustments necessary to allow them to quickly and seamlessly implement this change. We also thank Mr. Kinzie for his efforts and skills.

Other supporters- In conversation the law enforcement community, we were given support for this bill by the following associations; the Kansas Peace Officers Association, the Kansas Association of Chiefs of Police and the Kansas Sheriff's Association. Also in support are the Kansas Association of Beverage Retailers and the Petroleum Marketers and Convenience Store Assn. of Kansas.

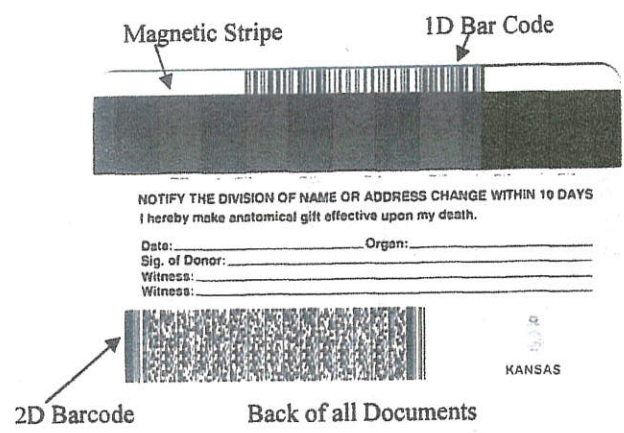
Attached are KSA 8-1329, the KLBA testimony text from 2003 and the KDOR information on the current DL.

Thank you for your consideration,

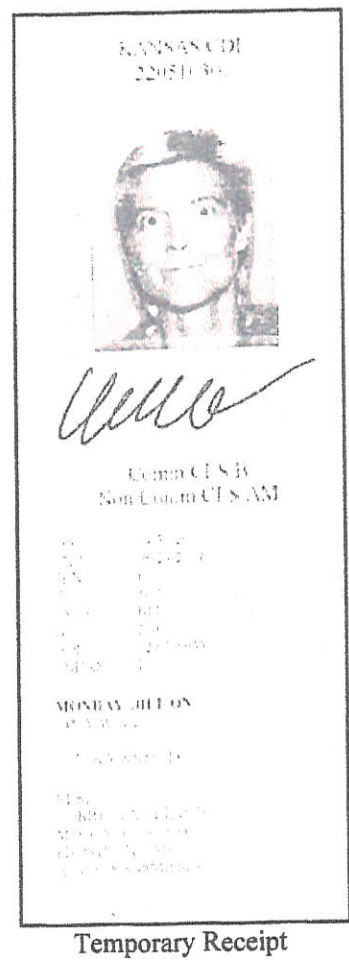
Philip Bradley 
Executive Director
Kansas Licensed Beverage Association



Senate Transportation Committee
February 22, 2006
Attachment 4



- Each card is laminated with a tamper resistant coating that increases the card's security and durability. The front laminate shows a pattern of the Kansas State Seal that changes color as the document is tilted for viewing. Printed data overlaps the digital photo and ghost portrait image.
- The 1D and 2D barcodes and Magnetic Stripe on the back of each document contain text data from the front of the card.
- All documents issued to individuals less than 21 years of age will be in the "vertical" format.



8-1329. Same; cards issued to persons under 18 or 21 distinguishable. (a) An identification card issued to any person under 21 years of age shall expire on such person's twenty-first birthday and shall bear on the face of the card an overprint of the words "UNDER 21" placed diagonally across the card, and a statement to the effect that the card expires on the twenty-first birthday of the person to whom it is issued.

(b) In addition to subsection (a), all identification cards issued on and after July 1, 1997, to persons under the age of 18 years shall also be readily distinguishable from cards issued to persons age 18 years or older.

(c) **In addition to the provisions of subsections (a) and (b), on and after July 1, 2004, the secretary of revenue shall implement a vertical format to make identification cards issued to persons under the age of 21 more readily distinguishable.**

(d) Renewal of such card shall be in accordance with the provisions of K.S.A. 8-1325, and amendments thereto.

*History: L. 1973, ch. 31, § 6; L. 1997, ch. 33, § 2; L. 2003, ch. 55, § 2; July 1.
(Author placed bold highlights)*

Testimony on SB-159 on February 13, 2003
Senate Transportation Committee
Mr. Chairman and Senators of the Committee,

I am Philip Bradley of the Kansas Licensed Beverage Assn, representing your constituents in the hospitality industry who own and manage bars, clubs, restaurants, hotels and catering services where beverage alcohol is served.

Thank you for the opportunity to speak. I recognize the value of your time and will be brief.

The KLBA strongly supports the use of vertical ID's to assist in the fight against underage drinking.

Many, many times while teaching TAM® Responsible Servers classes, I personally have heard those students who have been cited for serving an underage person admit that they did look at the ID but misread the date or miscalculated the age. Additionally reports from the Law Enforcement community also cite this as a common mistake. News articles and state statistics show that in some areas at least 50% of those cited in "Sting" operations made this mistake of miscalculation. With a vertical system we can assure personnel are able at a glance to identify an underage ID. Many other states have taken this simple step to address this issue. There are at least 13 states, 26% of the nation, that now have, are implementing or are considering this format. (CO, CN, IA, KY, MA, MS, MI, NV, OH, TX, VA, VT, WA) SB-159 would allow Kansas to do the same.

We support SB-159 and urge it's passage.

Thank you ,

Philip Bradley
Executive Director
Kansas Licensed Beverage Association

**Drink Responsibly.
Drive Responsibly.**

Section 1. K.S.A. 2005 Supp. 8-240 is hereby amended to read as follows: 8-240. (a) Every application for an instruction permit shall be made upon a form furnished by the division of vehicles and accompanied by a fee of \$2 for class A, B, C or M and \$5 for all commercial classes. Every other application shall be made upon a form furnished by the division and accompanied by an examination fee of \$3, unless a different fee is required by K.S.A. 8-241, and amendments thereto, and by the proper fee for the license for which the application is made. If the applicant is not required to take an examination the examination fee shall not be required. The examination shall consist of three tests, as follows: (1) Vision; (2) written; and (3) driving. If the applicant fails the vision test, the applicant may have correction of vision made and take the vision test again without any additional fee. If an applicant fails the written test, the applicant may take such test again upon the payment of an additional examination fee of \$1.50. If an applicant fails the driving test, the applicant may take such test again upon the payment of an additional examination fee of \$1.50. If an applicant fails to pass all three of the tests within a period of six months from the date of original application and desires to take additional tests, the applicant shall file an application for reexamination upon a form furnished by the division, which shall be accompanied by a reexamination fee of \$3, except that any applicant who fails to pass the written or driving portion of an examination four times within a six-month period, shall be

required to wait a period of six months from the date of the last failed examination before additional examinations may be given. Upon the filing of such application and the payment of such reexamination fee, the applicant shall be entitled to reexamination in like manner and subject to the additional fees and time limitation as provided for examination on an original application. If the applicant passes the reexamination, the applicant shall be issued the classified driver's license for which the applicant originally applied, which license shall be issued to expire as if the applicant had passed the original examination.

(b) (1) For the purposes of obtaining any driver's license or instruction permit, an applicant shall submit, with the application, proof of age or proof of identity, or both, as the division may require. An applicant shall submit the applicant's social security number, which shall remain confidential and shall not be disclosed, except as provided pursuant to K.S.A. 74-2012, and amendments thereto. If the applicant does not have a social security number, the applicant shall submit a sworn statement, with the application, stating that the applicant does not have a social security number. The division shall assign a distinguishing number to the license or permit. If the applicant is applying for an instruction permit or driver's license and the applicant otherwise meets the requirements for such license, the applicant shall receive a temporary license or instruction permit until the division verifies all facts relative to such

applicant's right to receive an instruction permit or driver's license, including the age, identity, social security number and residency of the applicant.

(2) An applicant who submits proof of age or of identity issued by an entity other than a state or the United States shall also submit such proof as the division may require that the applicant is lawfully present in the United States.

(3) The division shall not issue any driver's license to any person who is not lawfully present in the United States.

(4) The division shall not issue any driver's license to any person who is not a resident of the state of Kansas, except as provided in K.S.A. 8-2,148, and amendments thereto.

(5) The parent or guardian of an applicant under 16 years of age shall sign the application for any driver's license submitted by such applicant.

(c) Every application shall state the name, date of birth, sex and residence address of the applicant, and briefly describe the applicant, and shall state whether the applicant has been licensed as a driver prior to such application, and, if so, when and by what state or country. Such application shall state whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for such suspension, revocation or refusal. In addition, applications for commercial drivers' licenses and instruction permits for commercial licenses must include the following: The applicant's social security number; the person's

signature; the person's color photograph; certifications, including those required by 49 C.F.R. 383.71(a), effective January 1, 1991; a consent to release driving record information; and, any other information required by the division.

(d) When an application is received from a person previously licensed in another jurisdiction, the division shall request a copy of the driver's record from the other jurisdiction. When received, the driver's record shall become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

(e) When the division receives a request for a driver's record from another licensing jurisdiction the record shall be forwarded without charge.

(f) A fee shall be charged as follows:

(1) For a class C driver's license issued to a person at least 21 years of age, but less than 65 years of age, \$18;

(2) for a class C driver's license issued to a person ~~less than 21 years of age or~~ 65 years of age or older, ~~or a farm permit,~~ \$12;

(3) for a class M driver's license issued to a person at least 21 years of age, but less than 65 years of age, \$12.50;

(4) for a class M driver's license issued to a person ~~less than 21 years of age or~~ 65 years of age or older, \$9;

(5) for a class A or B driver's license issued to a person who is at least 21 years of age, but less than 65 years of age,

\$24;

(6) for a class A or B driver's license issued to a person ~~less than 21 years of age or~~ 65 years of age or older, \$16; or

(7) for any class of commercial driver's license issued to a person 21 years of age or older, \$18; or

(8) for class A, B, C or M, or a farm permit, or any commercial driver's license issued to a person less than 21 years of age, \$20.

A fee of \$10 shall be charged for each commercial driver's license endorsement, except air brake endorsements which shall have no charge.

A fee of \$3 per year shall be charged for any renewal of a license issued prior to the effective date of this act to a person less than 21 years of age.

If one fails to make an original application or renewal application for a driver's license within the time required by law, or fails to make application within 60 days after becoming a resident of Kansas, a penalty of \$1 shall be added to the fee charged for the driver's license.

(g) Any person who possesses an identification card as provided in K.S.A. 8-1324, and amendments thereto, shall surrender such identification card to the division upon being issued a valid Kansas driver's license or upon reinstatement and return of a valid Kansas driver's license.



K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE
DIVISION OF VEHICLES

KATHLEEN SEBELIUS, GOVERNOR

TO: Senate Transportation Committee
FROM: Alan Anderson
DATE: February 22, 2006
RE: Senate Bill 554

Good Morning Chairman Donovan and members of the committee. I am Alan Anderson, Chief of the Kansas Driver License Examining Bureau in the Division of Vehicles.

I am here this morning to speak regarding Senate Bill 554.

Senate Bill 554 would require all driver's licenses issued to individuals under the age of 21 to expire on the holders 21st birthday. Currently Kansas law requires all identification cards issued to individuals under 21 to expire on their 21st birthday. This bill would make the requirements the same for a driver's license.

The division estimates that this bill will effect approximately 35,000 drivers each year.

The Division of Vehicles has been working with Philip Bradley, of the Kansas Licensed Beverage Association to allow the Division of Vehicles to implement this change with the least amount of impact on Kansas drivers.

Thank you for allowing me to speak, and if you have any questions, I'll be glad to try to answer them.

Kansas Sheriffs Association



OFFICERS

- President
Sheriff Randy Rogers
Coffey County
- First Vice President
Sheriff Jeff Parr
Stafford County
- Second Vice President
Sheriff Gary Steed
Sedgwick County
- Secretary-Treasurer
Sheriff Rob Odell
Cowley County
- Sgt.-at-Arms
Sheriff John Fletcher
Russell County
- Executive Director
Darrell Wilson
- Office Manager
Carol Wilson
- Legal Counsel
Robert Stephan

To: Senate Transportation Committee
Re: SB554

The Kansas Sheriff's Association comes forward in support of SB554. This bill simply addresses driver's licenses expiring on the 21st birthday so that it would be easier to distinguish that a person is 21 years of age or under based on drivers photo placement based on less than 21 years of age. This law would in fact make it easier for law enforcement officers to determine if an individual is under 21 or not. Therefore we would as that this bill be acted upon favorably.

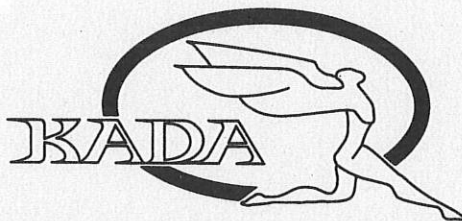
BOARD OF DIRECTORS

- Sheriff Pat Parsons**
Logan County - Dist. #1
- Sheriff Allan Weber**
Gove County - Alternate
- Sheriff Buck Causey**
Barton County - Dist. #2
- Sheriff Charles "Ed" Harbin**
Ellis County - Alternate
- Sheriff Glen Kochanowski**
Saline County - Dist. #3
- Sheriff Tracy Ploutz**
Ellsworth County - Alternate
- Sheriff Lamar Shoemaker**
Brown County - Dist. #4
- Sheriff David Mee**
Nemaha County - Alternate
- Sheriff Kevin Bascne**
Finney County - Dist. #5
- Sheriff Ed Bezona**
Stanton County - Alternate
- Sheriff Vernon Chinn**
Pratt County - Dist. #6
- Sheriff Ray Stegman**
Kiowa County - Alternate
- Sheriff Gerald Gilkey**
Sumner County - Dist. #7
- Sheriff Steve Bundy**
Rice County - Alternate
- Sheriff Marvin Stiles**
Linn County - Dist. #8
- Sheriff Sandy Horton**
Crawford County - Alternate

Sincerely,

Randy L. Rogers
Legislative Chair

Senate Transportation Committee
February 22, 2006
Attachment 7



KANSAS AUTOMOBILE DEALERS ASSOCIATION

February 22, 2006

To: Chairman Les Donovan
and the Members of the Senate Transportation Committee

From: Don L. McNeely, KADA President

Re: SB 558 - Lien Release on Vehicles; Penalties for Failure to.

Chairman Donovan and Members of the Committee:

Good morning, my name is Don McNeely, and I serve as President of the Kansas Automobile Dealers Association. Mr. Whitney Damron, KADA's Legislative Counsel, also accompanies me this morning. On behalf of the Kansas Automobile Dealers Association, which represents the interests of the state's franchised new motor vehicle dealers, we respectfully request your support of Senate Bill 558, an act concerning liens and encumbrances on vehicles, which addresses an inadequacy in the current motor vehicle titling law that results in the hindrance and delay of effective commerce for dealers and consumers alike.

Under current law, K.S.A. 8-135 (c),(6), establishes a timeframe for when a lien must be released upon the satisfaction of a security interest in a motor vehicle. When the indebtedness to a lienholder, whose name is shown upon a title, is paid in full, such lienholder within 10 days after written demand by restricted mail, shall furnish to the holder of the title a release of lien or execute such a release in the space provided on the title.

However, the reality of the situation is in stark contrast to the intent of the law. Dealers and consumers experience problems in two main scenarios:

The first scenario, new and used motor vehicle dealers have long been hampered by the situation they find themselves in when they take a used vehicle in trade or buy a used vehicle at a wholesale auction and they do not have a clear title due to a lien or an encumbrance on the vehicle. When a vehicle with an outstanding loan is taken in trade, the dealer makes a payoff to the lender from proceeds of the sale. Even though the lien payoff has been made, the sale of the traded or purchased vehicle cannot be completed to another purchaser until the certificate of title has been delivered to the dealer by the lienholder or cleared electronically through the Division of Vehicles. All titles on a motor vehicle with a lien or an encumbrance since January 1, 2003 are held electronically by the Division of Vehicles until the lien or encumbrance is released. Discussions and surveys of our member dealers show that substantial delays frequently occur, in violation of the current law.

February 22, 2006

The second scenario, a consumer pays off the loan on the vehicle, thereby satisfying the lien or encumbrance in the vehicle. The consumer wants to sell the vehicle privately, but the lienholder has not released the lien in accordance with current law. Therefore, the consumer cannot complete the sale of his/her own vehicle until the lienholder clears the encumbrance.

In either case, the delay in delivery of the title to the owner or dealer who has made the payoff has typically been two to three weeks, and in some cases as much as a month or two, due to the lienholder's failure to clear or release the lien in a timely fashion. Sometimes this is due to the lienholder's failure to recognize payment upon receipt. In other cases, the delay can only be attributed to poor procedure.

The primary contributing factor aggravating the chronic occurrence of these problems is the fact that the Kansas Division of Vehicles currently possesses no substantive enforcement authority to pressure lienholders into complying with the existing law, as enforcement is up to the individual or dealer by way of a private cause of action. As a result, financial institutions have been slow in complying with the statute resulting in inconveniences for consumers who wish to sell their vehicles and prospective purchasers of those vehicles. Further, dealers have a significant investment tied up in inventory which they can not sell until they have clear title or if they attempt to sell the vehicle, they face possibility of voiding the sale if they are unable to transfer clear title within 30 days from the date of sale, as required by Kansas law.

In order to correct this problem, Senate Bill 558 would expand the Division's current authority within K.S.A. 8-135 and provide the Division with the authority to enforce the timely release of a motor vehicle lien or encumbrance through the implementation of a civil administrative penalty process, which includes notice, hearing, and assessment of financial penalties against the violating lienholders.

Finally, the legislation would mandate that if the payment in satisfaction of the lien or encumbrance is made in cash or by intra-bank transfer of funds or wired funds, the payment shall be deemed to be cleared immediately upon receipt by the lienholder and the lienholder has 3 business days to release the lien or encumbrance. If the payment in satisfaction is made by any other means, cashiers or certified check, etc, the lienholder has 10 business days to release the lien or encumbrance. Thus, lienholders would not be allowed to unnecessarily delay titles when a payoff has been made.

On behalf of the Kansas Automobile Dealers Association, I would like to thank the Committee for allowing me to appear this morning and I respectfully request the Committee's approval for Senate Bill 558. I also would like to thank the Kansas Bankers Association for their assistance in drafting this legislation and their support in addressing this problem, as we believe this legislation would go a long way towards alleviating the roadblocks that currently prevent today's market from operating efficiently and in the best interest of the consumer and the industry.



February 22, 2006

To: Senate Committee on Transportation

From: Kathleen Taylor Olsen, Kansas Bankers Association

Re: SB 558: Vehicle Lien Release

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today regarding **SB 558**, which will revoke the current provisions found in KSA 8-135 regarding lien release procedures, and put in place new procedures and penalties for releasing liens on vehicles.

We have had an opportunity to preview the contents of the bill and would like to thank the Kansas Automobile Dealers Association for working with us to make these provisions functional for all parties involved.

To that end, I have attached to my testimony, additional amendments that we have discussed with the KADA and which both organizations agree make this bill even better. Specifically, we are requesting amendments in lines 16 and 21 to clarify that the time frames in this bill refer to "business" days and not calendar days.

In addition, the proposed language for lines 17 and 22 clarify that the request for the release of the lien must accompany the payment which satisfies the lien. The request for release will be on a form approved by the Division of Motor Vehicles which could be either a paper form or an electronic form depending on the method of payment.

The proposed amendment on line 34 clarifies that some requests for release may direct the lienholder to fax the release rather than mail it to the person requesting the release.

Finally, the proposed amendment on line 36 recognizes that the duty to release a lien when the title is an electronic title is accomplished when the lienholder sends the lien release electronically to the Division of Motor Vehicles.

Again, thank you for allowing us to bring forth these proposed amendments and we would ask for the Committee's favorable consideration.

SENATE BILL No. 558

By Committee on Transportation

2-14

9 AN ACT concerning liens and encumbrances on vehicles; relating to the
10 release thereof; establishing civil administrative penalties; amending
11 K.S.A. 2005 Supp. 8-135 and repealing the existing section.
12

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

14 New Section 1. (a) Upon the satisfaction of a lien or encumbrance
15 on a vehicle, the lienholder shall:

16 (1) Within three days after receipt of a payment of the type described
17 by subsection (b), fully execute a release of the lien or encumbrance on
18 a form approved by and in the manner prescribed by the division and
19 shall mail or deliver such release where directed by the person who re-
20 quested the release; or

21 (2) within 10 days after receipt of a payment of a type not described
22 by subsection (b), fully execute a release of the lien or encumbrance on
23 a form approved by and in the manner prescribed by the division and
24 shall mail or deliver such release where directed by the person who re-
25 quested the release.

26 (b) If the payment in satisfaction of the lien or encumbrance is in
27 cash or by intra-bank transfer of funds or wired funds, the payment shall
28 be considered cleared immediately upon receipt by a lienholder, at which
29 point the satisfaction of the lien or encumbrance shall be deemed to have
30 occurred.

31 (c) For purposes of subsection (a), the release is deemed fully exe-
32 cuted where the release is not by electronic means at that point in time
33 when it is completed and placed in the United States mail, postage pre-
34 paid, directed to the person requesting the lien release as shown on the
35 form so requesting it or if the release is accomplished electronically, the
36 release is deemed fully executed when it is delivered to the person re-
37 questing the release as shown on the form so requesting it, in the manner
38 prescribed by the division.

39 (d) If a lienholder fails to comply with subsection (a), an aggrieved
40 party may file a complaint against the lienholder with the division. For
41 the purposes of this section, an aggrieved party shall be the division, the
42 owner of the vehicle subjected to the lien or any person making a valid
43 lien request on a form approved by the division and the lienholder has

business

and a request for the release of the lien

business

and a request for the release of the lien

or delivered

electronically to the division

TESTIMONY FOR THE SENATE
TRANSPORTATION COMMITTEE
SB 558
FEBRUARY 22, 2006

Chairman Donovan, members of the committee I am Bill Henry, Director of Governmental and Regulatory Affairs for the Kansas Credit Union Association and I appear today in opposition to SB 558.

Our chief objection is that this bill imposes civil penalties that border on the draconian. In subsection (e), page 2 a lienholder who is found in violation of this section "at the discretion of the director" may have civil administrative penalties assessed for a first violation of not less than \$100 but not more than \$500. The civil penalty for a second violation would amount to not less than \$500 up to \$2,000.

Where a lienholder has been cited and penalized five or more times in the preceding calendar year each "subsequent violation would amount to not less than \$1,000 but not more than \$5,000."

In addition in subsection (h), page 2, any lienholder who fails to pay a civil administrative penalty after it becomes final shall be liable to the division "for up to three 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.

In addition the rate of interest set in this measure "shall be the rate of 10 % per annum."

Members of the credit union association have not had communication with the director of motor vehicles on why these civil penalties are necessary but we hope the director will explain the necessity to the committee.

Credit unions' main objection to this measure is that the provisions of this bill may be designed for closed-end lending but any financial institution doing open end lending will have a difficult time complying with this legislation. It is not designed to encourage open-end lending as currently practiced by financial institutions today.

We believe this measure would be a good subject for interim study where there would be more time to analyze the department's needs for these penalties.

Respectfully Submitted,

Bill Henry, Kansas Credit Union
Association