

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Les Donovan at 8:30 A.M. on January 25, 2007 in Room 527-S of the Capitol.

All members were present.

Committee staff present:

Hank Avila, Kansas Legislative Research Department
Mike Corrigan, Revisor of Statutes
Maggie Breen, Committee Assistant

Conferees appearing before the committee:

Senator Dennis Pyle
Lamar Shoemaker, Sheriff of Brown County
Senator Phil Journey
Ken Gudenkauf, KDOT
Steve Kearney, Kearney and Associates
Tom Whitaker, Kansas Motor Carriers Association

Others attending:

See attached list.

Chairman Donovan opened the hearing on **SB 108--Designating part of U.S. highway 73 as the Deputy Todd Widman memorial highway.**

Proponents:

Senator Dennis Pyle said the bill designates a portion of US highway 73 as the Deputy Todd Widman memorial highway as requested by several constituents and members of Todd's family. Members of the family were present. An article attached to his testimony gave many of the details of the events surrounding Todd's death. He asked that the bill be passed and placed on the consent calendar. He said the fiscal note covers 2 signs and there is a willingness to raise funds for 4 signs if the department would consider that. (Attachment 1)

Ken Gudenkauf, KDOT, said they normally have a sign on each end or at rest areas. That is KDOT's fiscal policy. He said he wasn't sure of the department's stand on the request for 4 signs but would guess that they would prefer to have 2 signs.

Lamar Shoemaker, Sheriff of Brown County said he wanted to make a short note of Todd's history. He grew up in Hiawatha, lived in Hiawatha, graduated in Hiawatha, and basically wanted to be a deputy all along. He was a ride along reserve officer before he was a deputy. His life dream was cut short. He was very well known throughout the town. He believes this would be a very fitting honor to Todd. (Attachment 2)

Chairman Donovan recognized Bill and Linda Nonnast who were present at the hearing. Bill had worked with Todd.

Chairman Donovan closed the hearing on **SB 108 and opened the hearing on SB 3--Highway safety memorial markers.**

Proponent:

Senator Phil Journey said **SB 3** is a simple piece of legislation which deals with family members or friends erecting their own personal shrines when a loved one is killed in a car wreck. These signs are potentially dangerous to those traversing the highways of the state. He advocated more uniform signs and provided picture copies of memorial markers taken in the state of Florida. He pointed out that they are on a standard post which would be much safer than many of the ones presently being placed. He noted the names on the Florida markers were too small. He said that he was surprised that the fiscal note covered the costs of a much bigger sign than those he was presenting. He said the names on the markers from Florida were too small. He would have no objection to amending the bill allowing for the cost, including a 150% cost factor similar to highway designation memorial signs, to be borne by those requesting the signs. (Attachment 3)

Hank Avila, Legislative Research covered a handout that told what some of the other states are doing. He noted that the two driving issues are safety and whether the putting up of cross memorials violates the separation of church and state. He said the American Atheist Association protested the crosses in Utah and a Jewish community

CONTINUATION SHEET

MINUTES OF THE Senate Transportation Committee at 8:30 A.M. on January 25, 2007 in Room 527-S of the Capitol.

protested the crosses in Florida. The one in Utah involved a lawsuit, the one in Florida didn't. Some states required fees and others didn't. (Attachment 4) Hank also provided copies of KDOT's present policy. (Attachment 5)

Ken Gudenkauf, Legislative Liaison, KDOT, said the department chose not to testify on the bill. He said when the signs started popping up on their right-of-ways they started to go around taking them out and decided that was a no-win situation. They basically developed the policy that they would work with the families so signs will be placed in a safe way. Some of the early ones were right on the shoulder of the roads. It's really a safety issue and that is what their policy addresses. He said he was concerned that the bill says KDOT has to remove the other ones that are out there. Once they are there, it's very upsetting to people if they are removed.

Chairman Donovan closed the hearing on **SB 3** and opened the floor for introduction of bills.

Steve Kearney, Kearney and Associates, said he was before the committee in a couple of capacities to ask for 3 bill introductions.

The first request is the result of a post audit done on insurance auto auctions. There's no branding that travels along with the vehicle in a sufficient fashion. It's unregulated and provides a ripe opportunity for fraud. Anyone one can go in and purchase one of these vehicles, get the VIN, steal a car, and put the VIN on the stolen car. Post Audit had several recommendations. He asked the committee to introduce the bill.

Senator Wilson made a motion to introduce the bill. Senator Gilstrap seconded the motion. The motion carried. Chairman Donovan shared a personal experience where he got stuck with one of these vehicles as a trade in. He emphasized that the bill is badly needed.

Steve's second request was on behalf of the County Treasurer's Association. It needs to be made clear in the statutes that they're acting as an agent of the State of Kansas when they're acting on behalf of the state or the Division of Motor Vehicles.

Senator Wilson made a motion to introduce the bill. Senator Gilstrap seconded the motion. The motion carried. Steve's last request was on behalf of Kansas Action for Children and the Kansas State Trooper's Association. They are requesting a bill that would make a primary seat belt violation for 17 year olds and younger. It would be much like the helmet law.

Senator Schmidt made a motion to introduce the bill. Senator Hensley seconded the motion. The motion carried.

Chairman Donovan directed the committee's attention to 2 balloons that were passed out for **SB 9--Regulating traffic, video or television-type equipment, operation thereof.**

Tom Whitaker, Kansas Motor Carriers Association, explained his amendment. Tom said the industry is about to get electronic onboard recording devices for hours of service. It's a display unit plus they have procom with messages on dispatch and everything else that they are now using. He said when he saw Senator Journey's bill he realized it needs to be taken care of, because that's where technology is going. He asked for one change in the balloon. He said item (c) (2) that defines commercial vehicles is not a uniform part of the definition. It was put in the KCC regulations, many years ago, by the United Transportation Union that dealt with transportation of railroad employee. He asked that item (2) be deleted and (3) and (4) be renumbered. (Attachment 6)

Senator Wilson made a motion to adopt the amendment. Senator Apple seconded the motion. The motion carried.

Chairman Donovan said the second amendment covered the utility service vehicles for the same reasons that Tom had just explained. (Attachment 7)

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

Senator Schmidt made a motion to pass **SB 9** out favorably as amended. Senator Wilson seconded the motion. The motion carried.

Senator Wilson thanked Senator Journey for initiating this bill. He has helped many commercial businesses stay out of trouble.

The meeting adjourned at 9:17 a.m. The next meeting is scheduled for Tuesday, January 30, 2007.

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STATE OF KANSAS
SENATE CHAMBER



COMMITTEE ASSIGNMENTS
MEMBER: ELECTIONS & LOCAL GOVERNMENT
NATURAL RESOURCES
UTILITIES
JOINT COMMITTEE ON SPECIAL CLAIMS
AGAINST THE STATE

Senator Dennis Pyle

January 25, 2007

Mr. Chairman, members of the committee, thank you for giving me the opportunity to testify concerning SB 108.

As you can see, this bill designates a portion of U.S. Highway 73 as the Deputy Todd Widman memorial highway, as requested by several constituents and members of Todd's family. For those of you who may not be familiar with Todd's story, an article is attached that gives many of the details regarding the events surrounding his death.

Again, Mr. Chairman and members of the committee, thank you for the opportunity to testify on behalf of SB 108. Due to the nature of this bill, I humbly request the committee consider placing this bill on the Consent Calendar. I will be happy to stand for any questions. Thank you.

Paper: Wichita Eagle, The (KS)

Title: SLAIN DEPUTY 'WAS THERE TO HELP' HUNDREDS OF POLICE OFFICERS AND TOWNSPEOPLE TURN OUT TO HONOR A MAN WHO LOST HIS LIFE WHILE REACHING OUT TO A RUNAWAY

Date: March 5, 2000

HIAWATHA - A violent death does not knock easily on the doors of this small northeast Kansas town.

The fatal shooting of Todd Michael Widman, a 21-year-old part-time Brown County Sheriff's deputy, was a first in many ways for Hiawatha, population 3,600.

The community can't remember a law enforcement officer ever being killed in the line of duty. And for members of Widman's 1997 Hiawatha High School class - two-thirds of which came home to attend his funeral Saturday - the deputy's death marked the first of someone close to them.

No one will ever know what happened between the two young men whose paths crossed in that white Chevrolet Caprice sheriff's car last Wednesday. But people who knew Widman say they have no doubt he died trying to help Vincent Smith, a 16-year-old runaway. Smith later was shot and killed after he shot at officers searching for him.

On Saturday, as hundreds of mourners packed the Hiawatha High School auditorium - the only venue big enough for the funeral - businesses used marquees usually reserved for touting ice cream and oil change specials to remember Widman.

"Let him live forever in your heart."

"Todd's family: You're in our prayers."

"We salute Todd Widman."

Widman's death is even more tragic, his colleagues and friends say, because it came at the hands of a boy who grew up in a law enforcement family.

Smith's father, Lt. Thomas Smith, is a 29-year-veteran of the police department in Buffalo, N.Y. In a handwritten letter, Smith said the boy who pulled the trigger on a handgun taken from home was not the same boy he raised.

Widman was on his way to becoming the type of law enforcement officer who would have been a role model for people Smith's age, say Hiawatha community leaders.

He split his time between attending classes at Washburn University in Topeka and working at the sheriff's department as a jailer and serving papers. Each focused on his dream of a career in law enforcement.

"He actually lived for that," said Jim Reigle, who runs a private ambulance service and responded to the shooting. A cross decorated with flowers and teddy bears marks the spot where Widman died.

A role model

Early Wednesday evening, Widman responded to a report of a teen walking along U.S. 73 north of Hiawatha. He radioed in at 6:53 p.m. to say he had found the boy.

Brown County Attorney Kevin Hill said he can't believe Widman would have done anything to agitate Smith, who took off from Buffalo in his mother's 1988 Ford Tempo, ditched it northwest Missouri along I-29 and hitchhiked his way toward Hiawatha.

"I think Todd was there to help this kid," Hill said.

John Severin, superintendent of the school district Widman attended from kindergarten through 12th grade, agreed.

"I really see Todd being a big benefit to kids getting into trouble with the law," Severin said.

Although he was a rookie deputy, the youth of Hiawatha already looked up to Widman, who helped the high school football and American Legion baseball teams take second in the state.

Youngsters view athletes as role models, teacher John Barrett noted, and Widman was a good-looking, popular guy in high school.

"They looked up to him as a 'cool' guy," Hill said. "It says a lot he wanted to come back here. He would have been good with the youth."

Hill J Widman "the best student I ever had" and said he made the highest grade in one of Highland Community College's toughest classes, a criminal law and procedure course.

Sheriff Lamar Shoemaker, whose officers wore black bands on their badges to honor Widman, said Widman was an eager student of law enforcement. He participated in a ride-along program and was "always wanting to learn."

Farewell to a colleague

Hundreds of law enforcement officers attended Widman's funeral. Traveling from across Kansas and from Nebraska, Missouri, Iowa and even from Buffalo, they saluted Widman at his graveside. They filled the stage at the high school auditorium and spilled over into the aisles, many of them forced to stand during the service because there was no room for them to sit.

Widman was buried underneath a bright blue tent on a warm day with clear skies and a gentle Kansas breeze. Mount Hope Cemetery was surrounded by fields, the type in which Widman liked to hunt and drive golf balls.

The Rev. Rick Souter said family members remember Widman teeing off the porch of his boyhood home, sending golf balls into the hayfield. He'd pay cousins to grab up the balls before his stepfather needed to plow.

"He loved the outdoor sports," said Nathan Zeit, a classmate now attending Kansas State University who joined other members of his class at the funeral and at the cemetery.

Honoring a classmate

No one in particular organized the effort to come back home to attend the funeral, Zeit said. His classmates just knew it was the right thing to do.

"He was a good kid," said Christy Conrad, now attending Western Illinois University in Peoria.

Conrad said many members of the class of about 90 were struggling with the first death of someone close.

"I think that's why it's so hard," she said as other members of her class hugged each other and wiped away tears.

Known for being easygoing, Widman also was a hard worker, friends say.

He worked part-time jobs at the sheriff's office as a jailer and serving papers and also filled up people's cars at Kloepper Texaco. Severin was hoping Widman would continue to work as part of the district's summer maintenance crews, a job he'd done the past three years.

"Todd's was the first name that came up" when Severin asked around about who he should rehire this summer.

Widman hadn't narrowed down his summer plans yet, but he told his grandparents he needed to make a certain amount of money this summer to help pay for school and hoped he'd get at least 30 hours a week at the sheriff's department.

In the coming days and weeks, officials will try to sort out what made Smith run away and shoot Widman.

"Why he was here may be a question no one can answer," Shoemaker said. "I don't know what Todd's state of mind was that night. There's only one person who can answer that, and he's not here."

The deaths of Widman and Smith will forever be entangled. Their stories started with a call to emergency dispatchers and ended with one, too: "728, I've been shot."

Deb Gruver can be reached at 268-6400 and by e-mail at dgruver@wichitaagle.com.

PHOTO

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Author: DEB GRUVER, The Wichita Eagle

Section: LOCAL & STATE

Page: 17A

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Brown County Sheriff's Dept.

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PHONE (785)-742-7125

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Lamar Shoemaker-Sheriff



September 5, 2007

The Honorable Dennis Pyle
Kansas State Senator
Kansas State Senate
300 West 10th Street
Topeka, KS 66612

Dear Senator Pyle:

I know that there is an effort underway to have the legislature designate 73 Highway from the Nebraska line to the North City limits of Horton, KS as the Todd Widman Memorial Highway, and I want you to know that I support this effort.

Todd was a fine deputy and his needless death was a tragedy for all of Brown County. He was well thought of by his co-workers and the citizens of Brown County.

If I am needed to testify before any legislative committees please notify me.

Sincerely,

Lamar Shoemaker

Attn: Senator Pyle

785-368-6365

SENATOR PHILLIP B. JOURNEY

STATE SENATOR, 26TH DISTRICT
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TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS

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(JOINT), CHAIR
HEALTH CARE STRATEGIES
JUDICIARY
PUBLIC HEALTH AND WELFARE
TRANSPORTATION
CORRECTIONS AND JUVENILE JUSTICE
OVERSIGHT (JOINT)
SOUTH CENTRAL DELEGATION, CHAIR

**Testimony before the Kansas Senate Transportation Committee
in Support of Senate Bill 3
Presented January 25th, 2007,**

Mr. Chairman, members of the committee thank you for the opportunity to have Senate Bill 3 heard. Senate Bill 3 is a simple piece of legislation that deals with an emotional issue and is intended to improve the public's safety on Kansas highways.

For members of the committee, I have provided copies of photographs taken by a friend who was traveling in the state of Florida and observed the memorials for individuals killed on the highways in that state. This is a very emotional issue and is a difficult one for governmental employees to deal with. This bill, if adopted, will give KDOT staff cover in dealing with families. Currently, many family members or friends of those killed in traffic accidents in the state of Kansas will establish and maintain impromptu roadside memorials intended to honor the passing of their friend or family member generally in the location of the accident. While these memorials can have the positive affect of reminding drivers of their own mortality and the consequences of bad decisions or inattention by drivers in some instances these memorials present an additional traffic hazard for our fellow Kansans. While Senate Bill 3 attempts to recognize the need for these memorials, it also establishes statutory authority for the Kansas Department of Transportation to design and place these signs so the desire of the family members to honor their loved ones is maintained but they are placed in a safe manner.

I have personally seen roadside memorials that were made out of rebar or other materials that have the potential for impaling the occupants of a vehicle should they penetrate the passenger compartment of a vehicle. The Kansas Department of Transportation has the engineering expertise and the knowledge base necessary to install these memorials as contemplated in such a way as to provide a positive reminder to our fellow Kansans of the need to drive safely and to not increase the risk to Kansas drivers of a second tragic accident in the same location.

While originally drafted at the cost of the Kansas Department of Transportation, I have no objection to amending the bill allowing for the cost to be borne by those who request the sign. After our meeting on January 24th when the committee discussed highway memorial signs, and I became aware of the 150% cost factor, I believe that would be appropriate in this circumstance also.

I appreciate the committee's time and attention and ask that you refer Senate Bill 3 favorably for passage.

Respectfully submitted

A handwritten signature in blue ink, reading "Phillip B. Journey". The signature is written in a cursive style with a large initial "P" and a long, sweeping tail.

Phillip B. Journey





ROADSIDE MEMORIAL REQUIREMENTS IN SELECTED STATES

	Permitted	Restrictions/Requirements	Fees	Definition
Alaska Stat. 19.25,260 (2006)	Permitted on right-of-way; no more than two years. The Department of Transportation can remove or relocate signs in case of construction or maintenance of a highway.	a) Cannot interfere with use of highway, visibility of other signs; b) Persons requesting memorial must: 1) Post the person's contact on the memorial; 2) Inform the Department of the location within seven days of placement of the memorial; and 3) Provide the person's contact to the Department. c) Cannot place political message on memorial; d) Cannot place reflective material on memorial; and e) The state is not liable for damage or injury resulting from the memorial.		Flags, flowers, and other lightweight objects or ornamentation used at funerals.
Colorado CR. 5.43-2-149 (2006)	Permitted if it does not conflict with federal law.	Must apply for a memorial to the Department of Transportation and include name of the individual memorialized and the highway where such individual lost his or her life. Memorial must be within the highway easement, as far from the roadway as practical and reasonably necessary to preserve safety. County memorials cannot exceed three feet above ground, two feet in width, and six inches in thickness.	Determined by the Department, not to exceed the direct and indirect expenses associated with erecting and maintaining the memorial.	"County memorial" means a plaque, monument, or similar object placed in a particular location on a county road to commemorate one or more people who died on that county road. "State memorial" means a sign on a highway to commemorate one or more people who died on that highway.
Georgia O.C.G.A. 17-15-8	The next-of-kin to victims of vehicular homicide caused by someone driving under the influence of drugs or alcohol can apply for a memorial.	The Georgia Department of Transportation shall maintain the memorial for five years. Sign will be 24 inches wide by 36 inches high and depict a map of the State of Georgia with a dark blue background and a black outline of the state boundaries. The sign shall contain the words "In Memory of (name), DUI victim (date of accident)."	Fine raised by \$1 to \$150 for DUIs. Creates the Georgia Crime Victims Emergency Fund.	

Hank Avila
Legislative Re

Tennessee Tenn. Op. Atty. Gen. No. 05-016	Office of the Attorney General has ruled that the Tennessee Department of Transportation nor any other agency of state or local government has the express authority to grant a citizen permission to erect a cross or similar memorial on a right-of-way of a state or interstate highway in Tennessee.			
Virginia Code of Virginia Ann. 33.1-206.1	Permitted	The Commonwealth Transportation Board establishes regulations regarding size and distance from roadway. A penalty of not more than \$100 for placing an unauthorized memorial.		
West Virginia W. Va. Code 17-20-2 (2006)	Permitted for immediate family members.	Highway Commissioner may direct or cause the removal of a memorial in case it is necessary for construction, maintenance, and safety. The State of West Virginia is not liable for any claims arising as a result of the removal of a marker or tribute.		Decorations, flowers, or other memorial ornaments or tributes.
Wyoming W.S. 24-2-102	Application to Wyoming Department of Transportation	Can remain in place for five years. No new memorials can be placed. No private memorials of any type are allowed. Existing private memorials will be allowed to remain until spring of 2008.		

Sources: Lexis-Nexus, WestLaw.

KDOT From
Policy Han
Legislative Research
vita

{SNOW AND ICE CONTROL}

- E. If the above procedures do not effect *Removal of Certain Major Encroachments*, and if deemed appropriate, the matter should be deferred to the Office of Chief Counsel. All notices issued, correspondence, location description and plans or sketches should be submitted to the legal counsel for their review and action.

Temporary Bills and Posters should be removed immediately without notice.

If a personal contact does not effect removal of **portable advertising signs**, they may be removed without further notice. Signs should be stored for owner to pick up with the understanding that signs will not be placed on the right-of-way again.

7.73 – ROADSIDE MEMORIAL MARKERS

Roadside Memorial Markers are items left on highway right-of-way to preserve the memory of persons who may have died while working or traveling on the highway.

The local Subarea Supervisor shall evaluate the safety characteristics of each marker when it appears and report it to the Area Superintendent or district-designated KDOT representative. If the marker is a hazard, the KDOT representative should attempt to identify and contact whoever placed it to discuss, why it must be removed or how it might be modified to create less of a concern.

The primary concern relating to these markers is safety. KDOT is concerned for the safety of the traveling public, of KDOT workers and of those placing the memorials.

Items, which are considered a hazard to the traveling public or to highway workers, shall be removed.

Unobtrusive markers placed out of the clear zone and near the right-of-way line are considered a low priority for removal.

Items within the highway rights-of-way that are in need of repair or maintenance or otherwise present an unsightly appearance are considered litter and should be removed.

If the responsible party cannot be located and the marker needs to be relocated, it should either be carefully moved to a location near the right-of-way line or preserved and stored for a reasonable period of time, so that it may be picked up by those responsible, should they eventually call.

SENATE BILL No. 9

By Senator Journey

12-8

Tom Whitaker
Ks Motor Car
Assn.

9 AN ACT regulating traffic; concerning video or television-type receiving
10 equipment; amending K.S.A. 8-1748 and repealing the existing section.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 8-1748 is hereby amended to read as follows: 8-
14 1748. (a) ~~No motor vehicle operated on the highways of this state shall~~
15 ~~be equipped with television-type receiving equipment so located that the~~
16 ~~viewer or screen~~ *The operation of any video or television-type receiving*
17 *equipment by any person in a moving motor vehicle shall be unlawful, if*
18 *the viewer or screen of such equipment is so located that it is visible from*
19 *the driver's seat.*

20 (b) This section does not prohibit: (1) The use of television-type re-
21 ceiving equipment used exclusively for safety or law enforcement pur-
22 poses, if such use is approved by the superintendent of the Kansas high-
23 way patrol; ~~or~~ (2) electronic displays used in conjunction with vehicle
24 navigation systems.

25 Sec. 2. K.S.A. 8-1748 is hereby repealed.

26 Sec. 3. This act shall take effect and be in force from and after its
27 publication in the statute book.

Proposed amendment for consideration
by Senate Committee on Transportation

Senate
Transportation Committee
1-25-07
Attachment 6

; or (3) the use of video or television-type receiving equipment used in
a commercial motor vehicle, as defined in subsection (c) for sending,
receiving or monitoring data relevant to such commercial motor vehicle's
operation.

(c) As used in this section: "Commercial motor vehicle" means any
self-propelled or towed motor vehicle used on a highway in interstate
commerce to transport passengers or property when the vehicle:

(1) Has a gross vehicle weight rating or gross combination weight
rating of 10,001 or more pounds; or

~~(2) is designed or used to transport more than 8 passengers, including
the driver, for compensation; or~~

²
~~(3)~~ (2) is designed or used to transport more than 15 passengers, including
the driver, and is not used to transport passengers for compensation; or

³
~~(4)~~ (3) is used in transporting material found by the federal secretary of
transportation to be hazardous under 49 U.S.C. 5103 and transported in
a quantity requiring placarding under regulations prescribed by such
secretary under 49 C.F.R., subtitle B, chapter 1 subchapter C

SENATE BILL No. 9

By Senator Journey

12-8

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27

; or (3) the use of video or television-type receiving equipment
in utility service vehicles for the purpose of sending or receiving
data relevant to utility operations.

(c) As used in this section: "utility service vehicle" means a
vehicle owned or operated by a utility providing electric, electric
transmission, natural gas, propane, telecommunications, cable
television, satellite television, Internet, water or sewer services
and underground locaters and municipal vehicles

Senator Donair