

MINUTES OF THE HOUSE TRANSPORTATION AND PUBLIC SAFETY BUDGET  
COMMITTEE

The meeting was called to order by Chairman Lee Tafanelli at 1:30 on March 7, 2007 in Room 527-S of the Capitol.

All members were present.

Committee staff present:

Amy VanHouse, Kansas Legislative Research Department  
Michael Steiner, Kansas Legislative Research Department  
Mike Corrigan, Office of Revisor of Statutes  
Gina Bowes, Committee Secretary

Conferees appearing before the committee:

Andy Moffitt, SE Trustee for the Kansas State Firefighters Association

Others attending:

See attached list.

- Attachment 1 Overview of **HB 2486**
- Attachment 2 Testimony by Andy Moffitt, SE Trustee for the Kansas State Firefighters Association
- Attachment 3 Memorandum for CAR 101, Subject: Near Miss Incident on Fatality Wreck Scene (#2006-12345) submitted by Andy Moffitt

**Hearing on HB 2486 - Fire departments, temporarily close highways**

Amy VanHouse, Kansas Legislative Research Staff, explained sections of **HB 2486** (Attachment 1) which changes existing law to allow firefighters to temporarily block public highways in the discharge of their official duties. The current law allows firefighters to temporarily blockade public highways only when they are fighting a fire. Staff explained this change in law would not affect fiscal impact on the state or any units of local government.

Andy Moffitt, SE Trustee for the Kansas State Firefighters Association, presented testimony in support of **HB 2486** (Attachment 2). The first proposal is to change the language from "firemen" to "firefighters", which is more gender appropriate. The second proposal is to allow the blockade of any public highway temporarily while in the discharge of a firefighters' official duties which include, but are not limited to, responding to automobile accidents, hazardous material spills and highway medical emergencies. This proposal changes the language of "fighting of a fire" to "discharge of a firefighters' official duties" to allow the blockade of any public highway.

Mr. Moffitt included examples of secondary incidents to firefighters as a result of emergency responders acting upon an incident scene that was thought to be secured to vehicle traffic (Attachment 3). In closing, Mr. Moffitt explained this bill would create a safer working environment for emergency responders working on scenes on highways throughout the state. Mr. Moffitt stood for questions.

Chair Tafanelli asked for definition of "legally close" in regard to blockade of public highways. Mr. Moffitt defined "legal close" as having the authority to shut down a public highway to traffic for safe operation of firefighters' duties. As the law now dictates, only the Kansas Highway Patrol and the Kansas Department of Transportation can legally close public highways in an emergency response. In response to questions from Committee, Mr. Moffitt spoke to the processes of working with appropriate authorities in closing public highways in an emergency response.

**The hearing on HB 2486 was closed.**

The meeting adjourned at 2:40 p.m.



**HOUSE BILL No. 2486**

By Committee on Appropriations

2-8

9 AN ACT relating to fire departments; concerning certain powers;  
10 amending K.S.A. 31-145 and repealing the existing section.

11

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

13 Section 1. K.S.A. 31-145 is hereby amended to read as follows: 31-  
14 145. Actual members of any organized fire department, whether regular  
15 or volunteer, of any municipality shall be vested with police power to  
16 form fire lines, to prohibit persons from interfering with ~~firemen~~ *fire-*  
17 *fighters* in the discharge of their duties, interfering with apparatus, run-  
18 ning over fire hose and trespassing upon private property, and shall have  
19 power to blockade any public highway temporarily while ~~fighting a fire~~  
20 *in the discharge of their official duties*; and for the purpose of effectuating  
21 this police power shall have the power to make arrests for violation of any  
22 lawful orders made hereunder.

23 Sec. 2. K.S.A. 31-145 is hereby repealed.

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

Good afternoon Representatives, I am Andy Moffitt, SE Trustee for the Kansas State Firefighters Association. I also represent two different Fire Departments, the Chanute Fire Department, where I am employed full-time as a Battalion Chief and for the St. Paul/Mission Township Fire Department, where I volunteer as the Training Officer. I stand here before your committee in favor of House Bill 2486.

I would like to take some of your time to discuss these proposed changes to KSA 31-145.

The first change is pretty self-explanatory. The proposal is to change the language from "Firemen" to "Firefighters". This language change is more gender appropriate as there are many female firefighters throughout the state.

The second change, will allow the blockade of any public highway temporarily while in the discharge of a firefighters' official duties. This change will allow firefighters to close a roadway or a highway to safely conduct overall fire department operations.

Today, in our state, the closing of roadways occur everyday within the fire service. But it comes with issues; these issues will be solved with this house bill.

The major issue occurs when a fire department closes a roadway to safely conduct operations, and by current state statute these fire departments do not have the legal authority to close the road. Who is legally liable currently when a fire department closes a highway and a second accident or incident takes place? Sometimes these secondary incidents injure or kill Kansas emergency responders. This house bill will allow fire departments to legally close the road to keep both the citizens and emergency responders safe until proper law enforcement can arrive and secure the scene.

In my twenty years of serving the Kansas public, I personally know of many emergency responders that have been involved in close calls while operating on what they thought was an incident scene that was to be secured to vehicle traffic. In addition to these close calls, I do know of a few emergency responders that have been struck and have had career ending injuries from these secondary incidents. These incidents have happened in

TRANSPORTATION & PUBLIC SAFETY  
BUDGET

DATE 3-7-2007

ATTACHMENT 2

both the rural and the urban settings of our state. A couple of examples of these close calls are attached to my testimony.

In closing, I feel that this house bill will create a safer working environment for our emergency responders working on scenes that involve roadways and/or highways throughout our state. I appreciate your time and I am willing to stand for questions.

A handwritten signature in black ink that reads "Andy Moffitt". The signature is written in a cursive style with a large, stylized 'A' and 'M'.

Andy Moffitt  
SE Trustee, Kansas State Firefighters Association  
Battalion Chief, Chanute Fire Department  
Training Officer, St. Paul/Mission Township Fire Department

National Fire Fighter Near-Miss Reporting System  
Report View

Report Number: 06-0000325  
Report Date: 06/19/2006 15:19

Synopsis

Firefighter nearly struck by drunk driver while directing traffic at accident scene.

Event Description

While directing traffic at an accident scene, one of my firefighters was almost struck by a vehicle he was attempting to stop. The driver was stopped at scene, found to be intoxicated, and arrested by a state trooper.

Lessons Learned

Always have a means of escape. My firefighter was able to move from harms way by jumping into a ditch.

Demographics

Department type: Volunteer  
Job or rank: Assistant Chief  
Department shift: Respond from home  
Age: 43 - 51  
Years of fire service experience: 14 - 16  
Region: FEMA Region VII  
Service Area:

Event Information

Event type: Non-fire emergency event: auto extrication, technical rescue, emergency medical call, service calls, etc  
Event date and time: 04/15/2006 00:00  
Hours into the shift:  
Event participation: Witnessed event but not directly involved in the event  
Do you think this will happen again? Yes  
What were the contributing factors?  
Situational Awareness  
What do you believe is the loss potential?  
Life threatening injury

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National Fire Fighter Near-Miss Reporting System  
Report View

Report Number: 06-0000487  
Report Date: 09/23/2006 22:38

Synopsis

Car nearly hits FFs working on rural road.

Event Description

My department was dispatched to a reported hay bale fire in the roadway. An engine, a brush truck, and a chief responded per protocol. I was the captain on the engine that responded. Response to the scene was routine. This incident was located in a very rural area on a gravel road. All units arrived without incident. The incident was located on the downside of a large hill. The chief, who was the first to arrive, staged at the top of the hill in the left lane and established command. The Engine staged on the downside of the hill in the right lane approximately 400 feet from the Chief. The fire was located in the left lane and fire attack was initiated. The brush truck arrived on scene and staged approximately 50 feet behind the Engine in the right lane. While the fire was being extinguished, a vehicle came over the crest of the hill in the right lane at a high rate of speed. The vehicle bypassed the chief's vehicle, which was staged in the left lane, and lost control. The driver of the vehicle swerved to avoid the brush truck that was in the right lane and struck the ditch. The vehicle came very close to rolling over onto the brush truck. The vehicle came to a rest in the ditch with the driver denying any injuries. The vehicle came within 3 inches of striking the brush truck. All of us were very lucky in the incident. No one was in the brush truck at the time or operating from it. The vehicle swerved right instead of left. We did not have vehicle protection in that lane. If the driver of the vehicle had swerved left instead of right, some or all of the personnel would have been seriously injured. No injuries came of this incident. Weather was partly cloudy and 70âC™. The driver of the

vehicle was  
not impaired and was believed to be driving near the speed limit.

#### Lessons Learned

After the incident, the crews discussed what could have been done to prevent this from happening again. Apparatus staging procedures on rural roads are being changed to block the possibility of traffic striking personnel even if they go around or through the roadblocks. Hopefully this will prevent this type of incident from occurring again. Police personnel were not utilized because of the rural nature and that decision probably played a part in this incident. Complacency of traffic because of the rural location probably played a part in this incident.

#### Demographics

Department type: Combination, Mostly paid  
Job or rank: Captain  
Department shift: 24 hours on - 24 hours off  
Age: 25 - 33  
Years of fire service experience: 7 - 10  
Region: FEMA Region VII  
Service Area:

#### Event Information

Event type: Fire emergency event: structure fire, vehicle fire, wildland fire, etc.

Event date and time: 09/19/2006 16:00

Hours into the shift: 9 - 12

Event participation: Involved in the event

Do you think this will happen again? Uncertain

What were the contributing factors?

- Human Error
- Situational Awareness
- Procedure
- Protocol

What do you believe is the loss potential?

- Life threatening injury
- Property damage
- Minor injury
- Lost time injury

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National Fire Fighter Near-Miss Reporting System  
Report View

Report Number: 06-0000278  
Report Date: 05/15/2006 06:44

Synopsis

Police car is hit by unaware motorist while fire crew fights fire in ditch alongside freeway

Event Description

Our engine company was dispatched to a grass fire in the ditch of the freeway. As part of our SOG's, we were wearing reflective vests. A police officer was parked about 50 yards behind the engine to slow traffic. As we were putting out the fire, a motorist plowed into the parked patrol car at about 65 miles per hour. We directed our attention to injured motorists. Luckily, neither the officer nor the motorist was severely injured. Both the officer and driver were wearing their seatbelts.

Lessons Learned

The SOG's are there for a reason, follow them. As part of police SOG's, the officer was wearing his seatbelt even though he was not driving. If you are working around traffic, wear more reflective clothing. Expect motorists to act stupid, and be aware of your surroundings.

Demographics

Department type: Paid Municipal  
Job or rank: Fire Fighter  
Department shift: 24 hours on - 48 hours off  
Age: 34 - 42  
Years of fire service experience: 4 - 6  
Region: FEMA Region VII  
Service Area:

Event Information

Event type: Fire emergency event: structure fire, vehicle fire, wildland fire, etc.  
Event date and time: 04/15/2006 16:27  
Hours into the shift: 9 - 12

Event participation: Involved in the event

Do you think this will happen again? Yes

What were the contributing factors?

- Decision Making
- SOP / SOG
- Individual Action
- Procedure
- Protocol

What do you believe is the loss potential?

- Minor injury
  - Lost time injury
  - Property damage
-

2006 1 November

MEMORANDUM FOR CAR 101

SUBJECT: Near Miss incident on fatality wreck scene (#2006-12345)

After informing Car 103 of our near miss incident at an I-470 wreck, he stated to write a report on the incident. Engine 8 (reserve apparatus) and Truck 8 (reserve apparatus) responded to a car vs. pedestrian fatality accident on I-470. The scene was just North of SW 21<sup>st</sup> and the I-470 on ramp. All emergency vehicles were facing North in the North/West Bound lanes. The passing lane was open to highway traffic and the other lane was blocked off.

Engine 8 parked at the rear of the scene with one patrol car behind the engine but off to the right in the merge area of the ramp. A dim flare(s) and maybe some small cones were placed behind the patrol car. Truck 8 parked in front of the scene because the yellow reserve apparatus has very poor emergency lighting especially to the rear of the truck. There was at least four LEO patrol vehicles parked in between the two fire apparatuses. AMR parked just to the North of the pedestrian laying prone on the highway next to the open lane on the highway. Car 103 parked behind Engine 8 at an offset.

As we arrived on scene we were met by a pedestrian dressed in dark blue jeans and a black coat who was next to the open highway lane directing traffic. There were numerous patrol cars already on scene. After performing patient care on scene two fire personnel from Engine 8 rode in with the ambulance. Truck 8 cleared the scene with two personnel and I stayed with Lt. Rodman with Engine 8 so we could maneuver out of the scene safely. Lt. Rodman spotted me as I backed the engine at the scene. We then sat in the truck waiting to pull out into the open highway lane. As we waited, there was a semi that had slowed down at the scene. As the semi rolled passed us a Ford Explorer was coming down the highway at a high rate of speed. I could foresee that he wasn't going to have enough room to stop before he hit the back end of the slowing semi truck. I had no room to move the fire truck other than out into the open highway lane which wasn't an option. Once the Ford Explorer driver noticed he was going to run into the semi he slammed on his brakes and steered to his right which aimed him straight toward the driver's door on Engine 8. The vehicle stopped just short of hitting us.

What we as the crew to include the chief that responded with us find puzzling is that after pt care on scene, the numerous bystanders, emergency workers at the scene, and the decontamination that took place at the scene is that law enforcement decides to close off the highway to perform accident reconstruction. After all the whole reason we were on scene in the first place was due to the fact an individual was struck and killed by highway traffic. We should be able to achieve a better solution of slowing or diverting traffic on highway responses.

ZACH BOTTENBERG  
LT, Aerial 8, C-Shift

TRANSPORTATION & PUBLIC SAFETY  
BUDGET

DATE 3-7-2007

ATTACHMENT 3