

## MINUTES OF THE HOUSE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Gary Hayzlett at 1:30 p.m. on March 12, 2009, in Room 783 of the Docking State Office Building.

All members were present except:

Representative Barbara Ballard- excused

Committee staff present:

Bruce Kinzie, Office of the Revisor of Statutes  
Jill Shelley, Kansas Legislative Research Department  
Betty Boaz, Committee Assistant

Conferees appearing before the Committee:

Kevin Flory, NE Trustee for the KS State Firefighters Ass'n.  
Battalion Chief Andy Moffitt, Chanute Fire Department

Others attending:

See attached list.

The next meeting is scheduled for March 16, 2009.

The Chairman called the meeting to order. He opened the hearing on **SB 115**.

**SB 115 - Fire departments, temporarily closing highways.**

Chairman Hayzlett introduced Kevin Flory, the NE Trustee for the Kansas State Firefighters Association. (Attachment #1) Mr. Flory said **SB 115** will help ensure the safety of the Kansas firefighters and EMS workers. He said at the time the original statute was adopted car wrecks, hazardous materials and first responder services were not part of the fire service duties. He said **SB 115** would allow them the legal right to be able to position apparatus to protect themselves. Mr. Flory said apparatus placement is sometimes the only measure they have to protect themselves while at non-fire incidents. He said in many parts of Kansas there are few firefighters and even fewer law enforcement which places the entire burden on the fire and EMS responders to protect them at a scene on a highway. He concluded by saying two small changes in the wording in this bill would allow them to legally but temporarily place an apparatus in such a manner as to make a somewhat safer working environment for firefighters and first responders while performing their duties.

The Chairman recognized Andy Moffitt, Battalion Chief for the City of Chanute Fire Department. (Attachment #2) The first change Chief Moffitt offered was to change the title "fireman" to "firefighter". According to Chief Moffitt the main change to KSA 31-145, in the form of **SB 115** would be to allow the temporary closing/blockading of the roadway in the performance of firefighters' duties. He said currently the fire service has the ability by KSA 31-145 to blockade the roadway for firefighting reasons however, now their duties include assisting communities in hazardous materials incidents, emergency medical services, car accidents and other types of responses. Chief Moffitt said it was important to take care of responders to make their work area safer. He said they are asking for the ability to stop the traffic flow temporarily to take care of the emergencies safely and efficiently.

Ed Klumpp, Legislative Committee Chair for Kansas Association of Chiefs of Police and the Kansas Peace Officers Association, had submitted written testimony but came forward to present his testimony to the Committee. (Attachment #3) According to Mr. Klumpp, both associations recognize the firefighters' need for the provisions of this bill. He said the current law was passed in 1972 and has not been revised since its original enactment which was prior to fire departments becoming first responders to medical, injury calls and injury traffic accidents. He said firefighters blocking any portion of a roadway during an emergency is critical to the safety of victims and firefighters, law enforcement and medical personnel as well as the public. Mr. Klumpp concluded by saying the use of this statute in conjunction with the authority to direct traffic found in K.S.A. 8-1503, which includes traffic direction and control by law enforcement and firefighters, provides the firefighters with the tools they need to safely complete their responses to emergencies on our roadways.

CONTINUATION SHEET

Minutes of the House Transportation Committee at 1:30 p.m. on March 12, 2009, in Room 783 of the Docking State Office Building.

There were no other proponents and no opponents. Chairman Hayzlett closed the hearing on SB 115 after all questions were answered.

The Chairman opened SB 145 to the Committee for discussion and motions. After some discussion, Representative Long made a motion to amend SB 145 by substituting a new bill to be designated as House Substitute for SB 145 containing the contents of the cotton module amendment (Attachment #4). Representative Wolf seconded the bill and the motion carried. Representative Swanson made a motion to favorably pass H Substitute for SB 145, seconded by Representative Schwartz and the motion carried.

Chairman Hayzlett opened SB 115 to the Committee for discussions and motions. Representative Burgess made a motion to favorably pass SB 115 and place it on the consent calendar, seconded by Representative Swanson and the motion carried.

There being no further business before the Committee, the meeting was adjourned at 2:10 p.m. The next meeting will be on March 17, 2009 in Room 783 of the Docking State Office Building.



House Transportation Committee  
SB 115  
Kevin Flory  
NE Trustee KS State Firefighters Association  
3/12/09

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Good Morning Mister Chairman and members of the committee. My name is Kevin Flory. I am the NE Trustee for the Kansas State Firefighters Association. We are the group in Kansas who represent *all* 16,000 firefighters in Kansas both paid and volunteer. I am here to ask that you pass SB 115 in a favorable manor to help ensure the safety of our Kansas Firefighters and EMS workers. The changes we seek with this bill merely reflect the change in the duties that have been placed on the fire service. Car wrecks, hazardous materials, and first responder service were not part of the fire service norm at the time this statute was originally adopted. The fact is that a majority of our calls today don't deal with fire. The language of this bill merely seeks to allow us the *legal* right to protect ourselves while at non fire incidents. Apparatus placement at a scene is sometimes the only measure we have to protect ourselves from an errant driver who may become distracted as they approach the scene or have some other impairment. Many parts of Kansas have few firefighters and even fewer law enforcement. This places the entire burden on the fire and EMS responders to protect them at a scene on a highway whether it is a car wreck, a fuel spill, or a medical call. No other language change is being sought with this bill other than to allow us as the first responders in the state the right to go home to our families by having the legal means to protect ourselves while performing our duties. Two small changes with the wording in this bill will allow us to legally but temporarily place an apparatus in such a manner as to make a somewhat safer working environment for us while performing our duties. The Kansas fire services as a whole greatly appreciates your attention to this matter and asks for your approval of this bill. Thank you for your time this morning and I will be glad to answer questions.

House Transportation  
Date: 3-12-09  
Attachment # 1

House Transportation Committee  
SB 115  
Battalion Chief Andy Moffitt  
Chanute, KS Fire Department  
3/12/09

Good Morning, my name is Andy Moffitt, and I am a Battalion Chief for the City of Chanute Fire Department. I also serve the Kansas State Firefighters Association as the SE Kansas Trustee. I stand before you this morning to testify in agreement of SB115 and the changes it proposes to KSA 31-145.

To start off with the changes, I see the easiest one is changing the word "fireman" to "firefighter". This is to be current with the changing times as many women have joined the ranks of the fire service.

Now to the meat of the issue, temporarily closing/blockading the roadway in the performance of firefighter's duties. Currently the fire service has the ability by KSA 31-145 to blockade the roadway temporarily for the reasoning of firefighting. This has been all well and good until the fire service metamorphosed and has taken on different tasks to assist our communities; Hazardous Materials Incidents, Emergency Medical Services, Car Accidents and other types of response, place a need on the fire service to be on our roadways more and more.

We need to take care of our responders and give them the ability to return home to their loved ones, this bill would give the opportunity for our men and women who are responding to roadway incidents that opportunity to make their work area safer so they can do just that, return home.

We are not asking to have the ability to re-route traffic a different way, we are simply asking for the ability to stop the traffic flow temporarily, to take care of the emergency at hand safely and efficiently.

In closing, I thank you for the ability to stand here and give you an opinion on the safety of our responders. It means a lot to the state fire service for this bill to pass into law, as it will allow our responders to have another avenue to keep safe.

Thank you for your time, and I will stand for questions.

House Transportation  
Date: 3-12-09  
Attachment # 2



## Kansas Association of Chiefs of Police

PO Box 780603, Wichita, KS 67278 (316)733-7301

## Kansas Peace Officers Association

PO Box 2592, Wichita, KS 67201 (316)722-8433



March 12, 2009

### Testimony to House Transportation Committee in Support of SB 115

Representative Hayzlett and committee members,

The Kansas Association of Chiefs of Police and the Kansas Peace Officers Association recognize the firefighter's need for the provisions of this bill. In today's world, law enforcement and firefighters are working more and more cases side-by-side. Many of these events occur on our roadways.

**The problem:** The current law was passed in 1972 and has not been revised since its original enactment. This was a time prior to fire departments across this state becoming first responders to medical and injury calls, including injury traffic accidents. Firefighters are also major responders to on roadway incidents involving natural disasters such as ice storms and wind damage resulting in downed trees and power lines; flooding; and tornados. They are also the primary first responders to hazmat events on our roadways. The working climate has changed and this statute needs revised to reflect the firefighter's needs resulting from that change.

**The solution:** Amend KSA 31-145 as proposed in this bill.

**The reason:** Firefighters blocking any portion of a roadway during an emergency is critical to the safety of victims of medical or injury emergencies; all first responders including firefighters, law enforcement and medical personnel; and to the public. Fire vehicles are much more effective and create a much better safety zone than other emergency vehicles. This is critical to everyone involved as our focus is taken from other roadway traffic to deal with the injuries and hazards of the scene.

Questions arose in the Senate committee regarding the provision on lines 21 and 22 providing firefighters with arrest powers. This bill does not amend the arrest authority present in existing law. Very simply law enforcement does not respond to every call firefighters respond to. In addition, firefighters are frequently on the scene of emergencies prior to law enforcement. Firefighters need this limited arrest authority so they can legally detain a person who is interfering with their duties or otherwise endangering the firefighters or the public, for example by entering the closed areas. In reality, this arrest authority is rarely invoked. When it is invoked, the person arrested would typically be turned over to law enforcement. This limited arrest authority is a necessary tool to allow firefighters to quickly control the scene. We are not aware of any problems caused by this long standing statutory provision.

The use of this statute in conjunction with the authority to direct traffic found in K.S.A. 8- 1503, which includes traffic direction and control by law enforcement and firefighters, provides the firefighters with the tools they need to safely complete their responses to emergencies on our roadways.

We encourage you to report this bill favorable for passage.

A handwritten signature in black ink, appearing to read "Ed Klumpp".

Ed Klumpp  
Legislative Committee Chair-KACP  
Legislative Committee Chair-KPOA  
eklumpp@cox.net  
(785)640-1102

House Transportation  
Date: 3-12-09  
Attachment # 3

## Proposed Amendment to Senate Bill No. 145

Sec. 1. K.S.A. 2008 Supp. 8-1916 is hereby amended to read as follows: 8-1916. (a) Any person issued a special permit under the provisions of K.S.A. 8-1911, and amendments thereto, for the purpose of moving cotton modules on the highways of this state, shall be allowed to move such cotton modules 24-hours per day. Such person shall comply with all applicable provisions of K.S.A. 8-1911, and amendments thereto, and rules and regulations adopted by the secretary.

(b) The gross weight on tandem axles of a cotton module issued a special permit under K.S.A. 8-1911, and amendments thereto, shall not exceed 50,000 pounds. A cotton module with a tandem gross axle weight of 50,000 pounds or less shall not be considered a superload as defined in rules and regulations of the Kansas department of transportation.

~~(b)~~ (c) This section shall be part of and supplemental to the uniform act regulating traffic on highways.