

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 8:30 a.m. on March 3, 2009, in Room 136-N of the Capitol.

All members were present except:

Senator Anthony Hensley- excused

Committee staff present:

Mike Corrigan, Office of the Revisor of Statutes
Hank Avila, Kansas Legislative Research Department
Jill Shelley, Kansas Legislative Research Department
Cindy Shepard, Committee Assistant

Conferees appearing before the committee:

Richard Proehl, Representative, State of Kansas
Michael D. Floberg, P.E., Chief, Bureau of Transportation Safety & Technology
Tom Whitaker, Executive Director, Kansas Motor Carriers Association

Others attending:

See attached list.

The Chairman opened the hearing on **HB 2045 - Designating bridge no.85 on U.S. highway 166 in Labette county as the veterans memorial bridge.**

Representative Richard Proehl appeared as a proponent representing the citizens of Chetopa, Kansas and the Chetopa Memorial VFW Post no.10508. He stated that these groups will raise the funds needed to pay for two signs, installation, and future maintenance (Attachment 1).

There being no other conferees, the hearing on **HB 2045** was closed.

The Chairman called for final action on **HB 2045**. Senator Donovan moved, Senator Petersen seconded, to recommend **HB 2045** favorably for passage and be placed on the consent calendar. Motion carried.

The hearing on **HB 2147 - Regulating traffic; removal of vehicles from highways** was opened.

Chief Michael D. Floberg, P.E., testified on behalf of the Bureau of Transportation Safety & Technology in support of **HB 2147**. He indicated that this legislation will help save lives, alleviate traffic congestion and reduce property damage. With the passage of this bill, Kansas Department of Transportation workers and law enforcement officials would not need consent to remove any vehicles or property obstructing traffic (Attachment 2).

Written testimony in support of **HB 2147** was submitted by:

Ed Klumpp, Legislative Committee Chair, Kansas Association of Chiefs of Police & Kansas Peace Officers Association (Attachment 3)
Mark Bruce, Major, Kansas Highway Patrol (Attachment 4)

There being no other conferees, the hearing on **HB 2147** was closed.

The Chairman suggested working the bill immediately if there was no opposition. The committee agreed.

Senator Kultala moved, Senator Donovan seconded, to recommend **HB 2147** favorably for passage. Motion carried.

The Chairman opened the hearing on **HB 2152 - Towed vehicles, lien thereon, city ordinance or county resolution.**

Tom Whitaker, Executive Director of the Kansas Motor Carriers Association, representing the Association's Towing and Recovery Division, spoke in support of the bill. He stated that **HB 2152** expands the

CONTINUATION SHEET

Minutes of the Senate Transportation Committee at 8:30 a.m. on March 3, 2009, in Room 136-N of the Capitol.

circumstances by which a lien is created when towing and recovery service is provided (Attachment 5).

Questions and discussion followed. The Chairman indicated they would work the bill at a later date to allow the committee time to address their concerns.

There being no further conferees, the hearing on **HB 2152** was closed.

Continued discussion on developing the Comprehensive Transportation Plan and funding followed.

The meeting was adjourned at 9:17 a.m. The next meeting is scheduled for March 4, 2009.

RICH PROEHL
REPRESENTATIVE, 7TH DISTRICT
LABETTE COUNTY
510 PINE RIDGE ROAD
PARSONS, KANSAS 67357
(620) 421-1804

STATE CAPITOL
TOPEKA, KANSAS 66612
(785) 296-7639
1-800-432-3924
richard.proehl@house.ks.gov



HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
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MEMBER: ENERGY AND UTILITIES
INSURANCE
TRANSPORTATION

House Bill 2045
Testimony of
Representative Richard Proehl
to the
Senate Transportation Committee

March 3, 2009

Chairman Umbarger and Members of the Committee,

I am Rich Proehl, 7th District Representative. I am testifying in support of HB 2045 relating to bridge no. 85 on United States Highway 166 in Labette County and naming the bridge Veterans Memorial Bridge.

The Chetopa Memorial VFW Post #10508 request that bridge no. 85 be named Veterans Memorial Bridge. This matter has been discussed among the citizens of Chetopa since the new bridge was completed. A survey was conducted through the Chetopa Advance newspaper, now named the Labette Avenue, as to what name the citizens would like to see on the bridge. The consensus was overwhelmingly "Veterans Memorial Bridge".

The fiscal note on this bill is \$1,170.00. The citizens of Chetopa and the Chetopa Memorial VFW Post #10508 will raise the money for this project. Commander Bill Buckley may be reached at 1010 Maple Street, Chetopa, KS 67333, 620-236-7932. I have attached a copy of the fiscal note dated January 23, 2009, from Duane A. Goossen, Director of the Budget.

Thank you for the opportunity to appear in support of HB 2045. I will be happy to stand for questions at the appropriate time.

Senate Transportation

3-3-09

Attachment 1

**TESTIMONY BEFORE THE
SENATE TRANSPORTATION COMMITTEE**

**REGARDING HOUSE BILL 2147
RELATING TO A MOVE-IT LAW**

March 3, 2009

Mr. Chairman and Committee Members:

I am here to provide testimony in support of House Bill 2147, otherwise known as the "Move-it" law. This legislation will help save lives, alleviate traffic congestion and reduce property damage.

According to the National Highway Traffic Safety Administration, almost two-thirds of the nation's traffic crashes result in property damage only, which means that these vehicles could be removed from the road immediately alleviating congestion caused by the accident and reducing the risk of secondary accidents and additional property damage. Secondary accidents are not just a concern for other drivers; they also put the lives of law enforcement officials and EMT personnel at risk. Reducing these accidents would greatly improve the safety of our highways.

In addition, when vehicles have been moved out of the way following an accident, it improves the response and clearance times at the scene, which is very important considering that response times can determine whether or not the person lives. Given this, it's not surprising that more than 30 states have enacted similar laws including all of our neighboring states.

With the passage of this bill, Kansas Department of Transportation (KDOT) workers and law enforcement officials would not need consent to remove any vehicles or property obstructing traffic, which would help to alleviate traffic congestion. For example, according to the Texas Transportation Institute's 2007 Urban Mobility Report, 62% of the 13.7 million hours wasted due to congestion in Kansas City in 2005 were a result of traffic incidents. In addition to losses in productivity, congestion also wastes fuel and reduces our air quality due to idling vehicles.

Hence, the passage of the Move-It law will help save lives, improve the safety of our roadways, and reduce costly congestion. Please join me in supporting this important piece of legislation.

BUREAU OF TRANSPORTATION SAFETY & TECHNOLOGY
Chief Michael D. Floberg, P.E.

Dwight D. Eisenhower State Office Building

700 S.W. Harrison Street; Topeka, KS 66603-3745 • (785) 296-5555 • Fax: (785) 291-5555

TTY (Hearing Impaired): (785) 296-3585 • e-mail: publicinfo@ksdot.org • Public Access at North Entrance o

Senate Transportation

3-3-09

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 3, 2009

**Testimony to the Senate Transportation Committee
In Support of HB 2147
Move-It Law**

The Kansas Association of Chiefs of Police and the Kansas Peace Officers Association support HB 2147, the Move-It law. The problems with prolonged congestion and secondary accidents are clearly most pronounced in the metropolitan areas and the higher traffic density roadways. It is important to our members to maintain local control over the issue on roadways without high traffic volume such as residential and side streets. Obstruction is less of a concern in these areas and not moving the vehicles will aid in the investigation of the accident in some cases.

Quickly clearing the roadways enhances the safety of all persons on the roadway, including those involved in a minor accident. Secondary accident risks are also reduced. Removing the vehicles from the roadway, when practical, also enhances safety for law enforcement officers who would otherwise be in the roadway directing clearing operations after they arrive.

The amendments approved by the House Transportation Committee on page 1 were at our request. We encourage you to retain those amendments.

It is our belief the provisions of this bill will improve the traffic flow and the traffic safety on the applicable roadways, particularly in the more densely populated areas of our state. We respectfully ask your consideration to recommend the bill favorably for passage.

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

Ed Klumpp

Kansas Association of Chiefs of Police-Legislative Committee Chair

Kansas Peace Officers Association-Legislative Committee Chair

E-mail: eklumpp@cox.net

Phone: (785) 235-5619

Cell: (785) 640-1102

Senate Transportation

3-3-09

Attachment 3

January 23, 2009

The Honorable Gary Hayzlett, Chairperson
House Committee on Transportation
Statehouse, Room 242-W
Topeka, Kansas 66612

Dear Representative Hayzlett:

SUBJECT: Fiscal Note for HB 2045 by Representative Proehl

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2045 is respectfully submitted to your committee.

HB 2045 would designate bridge no. 85 on U.S. Highway 166 in Labette County as the Veterans Memorial Bridge. Signs to indicate this designation would not be erected until the Secretary of Transportation has received sufficient monies from gifts and donations to cover the cost of placing the signs and an additional 50.0 percent of that amount to cover future maintenance or replacement of the signs.

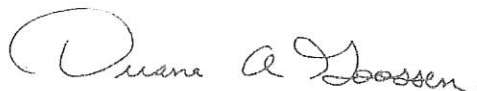
Estimated State Fiscal Effect				
	FY 2009 SGF	FY 2009 All Funds	FY 2010 SGF	FY 2010 All Funds
Revenue	--	--	--	\$1,170
Expenditure	--	--	--	\$780
FTE Pos.	--	--	--	--

The Kansas Department of Transportation states that two signs would need to be planned, manufactured, installed, and maintained for the bridge designated by HB 2045. HB 2045 would require that the amount necessary to pay for and maintain this set of signs be collected before placement of the signs would occur. The cost of these two signs, including installation, would be \$780. The additional 50.0 percent needed for future maintenance would be \$390; the agency

The Honorable Gary Hayzlett, Chairperson
January 23, 2009
Page 2—2045

would have to receive \$1,170 from donations before installing the signs. Any fiscal effect resulting from enactment of this bill has not been included in *The FY 2010 Governor's Budget Report*.

Sincerely,

A handwritten signature in cursive script that reads "Duane A. Goossen". The signature is written in dark ink and is positioned above the printed name and title.

Duane A. Goossen
Director of the Budget

cc: Ethan Erickson, Transportation

Written Testimony on House Bill 2147
Senate Transportation Committee

Prepared by
Major Mark Bruce
Kansas Highway Patrol

March 3, 2009

The Kansas Highway Patrol appreciates the opportunity to provide written testimony regarding House Bill 2147. This bill would require the owner or driver of a vehicle involved in a non-serious accident upon an interstate, U.S., or multilane or divided roadway to remove it if certain conditions are met. It also would give authority to specific, governmental "authorized employees or agents" to require a vehicle meeting such conditions to be removed from the roadway.

House Bill 2147 is intended to prevent non-serious accidents from unnecessarily blocking the traveled portion of the roadway. Non-injury accidents that don't involve the transportation of hazardous materials would require the driver or owner of a vehicle to remove it from the roadway if possible. The longer such vehicles block the roadway, the greater the risk of injury or death to motorists involved, other motorists and first responders. Many secondary collisions, causing death and injury, could have been prevented if drivable vehicles involved in an earlier accident had been moved off of the roadway.

This bill would also give the authority to authorized employees or agents of the Kansas Department of Transportation, the Kansas Highway Patrol and other law enforcement agencies to cause the removal of vehicles involved in non-serious accidents meeting the above criteria. Again, the intent is to remove drivable vehicles, debris or other property which obstructs the regular flow of traffic.

Many states already have similar laws in place and have experienced a reduction in fatalities, injuries and property damage while simultaneously relieving traffic congestion. It is the Kansas Highway Patrol's position that the common-sense requirements associated with House Bill 2147 will provide similar benefits in Kansas.

Again, the Kansas Highway Patrol appreciates the opportunity to provide its input regarding this bill. It is our hope that the committee favorably considers its traffic safety enhancing requirements.

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Kansas Motor Carriers Association

Trucking Solutions Since 1936

Legislative Testimony

Presented Before The

SENATE TRANSPORTATION COMMITTEE

Senator Dwayne Umbarger, Chairman

March 3, 2009

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Jim Mitten Trucking, Inc.
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TT&T Salvage & Towing, Inc.
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Tom Whitaker
Executive Director

MR. CHAIRMAN AND MEMBERS OF THE SENATE TRANSPORTATION COMMITTEE:

I am Tom Whitaker, executive director of the Kansas Motor Carriers Association. I appear before you this morning representing the Association's 72 towing and recovery member companies to ask your favorable consideration of House Bill No. 2152.

HB 2152 expands the circumstances by which a lien is created when towing and recovery service is provided. Current Kansas law allows for a lien to be created only if the towing and recovery service is requested by the owner of the vehicle or law enforcement. HB 2152 would add, "or as provided by a city ordinance or county resolution," to those instances that create a lien for the towing company.

Many times, towing companies are summoned to tow an abandoned vehicle from private property. In order for the towing company to create a lien on the abandoned vehicle, the tow must be initiated by law enforcement. This places a burden on local law enforcement to respond to requests for a private property tow when they have other duties of higher importance.

Several cities have adopted ordinances that provide a framework for private property tows. We have attached a copy of the City of Wichita's ordinance to our testimony. Please note the requirements of notification in Sec. 11.99.030 that must be done within one hour of completion of the tow. The Wichita ordinance is designed to protect the public and the rights of persons whose motor vehicles may be towed and stored by a private tow service at the request of a third party.

While the Wichita ordinance protects the public, it does not provide the tower with a lien to collect the towing charges. HB 2152 will address this situation only when there is a city ordinance or county resolution in place to provide for such private property towing.

Kansas law provides for additional requirements on the tow company prior to satisfaction of a towing and recovery lien. The notification and publication requirements are as follows:

Legislative Testimony – HB 2152 – Page 2

- If name of the owner of the vehicle is known to the person in possession of such vehicle, then within 15 days, notice shall be given to the owner that the vehicle is being held subject to satisfaction of the lien.
- Any ~~vehicle~~^{towing company} remaining in possession of the ~~vehicle~~^{towing company} for a period of 30 days after such towing service has been provided may be sold to satisfy the lien.
- The towing company, within 30 days of taking possession of the vehicle must request from the Division of Vehicles information on the last registered owner and any lienholders.
- Within 10 days after receipt of the information from the Division of Vehicles, the towing company shall send, by certified, mail notice to the last registered owner and any lienholders, that the vehicle is being held subject to satisfaction of the lien.
- The last registered owner or lienholders have 15 days to reply to the notice by certified mail.
- After the 15 day time period the towing company shall publish a notice in the city or county newspaper where and when such sale at public auction will take place and that the owner or lienholder has 15 days to claim the vehicle.
- Failure to give any notice required under the provisions of the towing and recovery lien law shall stop the imposition of storage fees until such time the notice provisions are complied with.

The protection of the vehicle owner is covered in state law, city ordinances and county resolutions. HB 2152 will provide the towing company the same protection provided in state law. On behalf of the KMCA Towing and Recovery Division, I respectfully request the Senate Transportation Committee report HB 2152 favorably. I thank you for the opportunity to appear before you today and would be pleased to respond to any questions you may have.

CHAPTER 11.99. PRIVATE TOWING REGULATIONS

Sec. 11.99.010. Purpose and intent.

Sec. 11.99.020. Definitions.

Sec. 11.99.030. Unlawful acts.

Sec. 11.99.040. Nonapplicability to governmental vehicles and tows.

Sec. 11.99.050. Penalty.

Sec. 11.99.010. Purpose and intent.

It is declared that the purpose and intent of this chapter is to protect the public and the rights of persons whose motor vehicles may be towed and stored by private towing services at the request of third parties.

(Ord. No. 46-552 § 1)

Sec. 11.99.020. Definitions.

As used in this chapter, the words and phrases defined in this section shall have the following meanings, unless the context otherwise requires:

- A. "Towing" means the moving or removing or the preparation therefor of a motor vehicle for which a service charge is made, either directly or indirectly, of a motor vehicle from private property without the knowledge and actual consent of the owner or the person in legal possession of the vehicle.
- B. "Tow truck" means any truck or other vehicle adapted or used for the purpose of towing, winching, carrying or otherwise removing another vehicle from a given location for commercial purposes.
- C. "Storage" means the custody and control of a vehicle by a tow truck operator as a result of a third-party ordered tow.
- D. "Tow operator" means any person engaged in the business of offering or providing a towing service for commercial purposes.
- E. "Private property" means all property privately owned regardless of whether the property is open to public access.
- F. "Person" means a natural person or a legal entity such as, but not limited to, an individual, firm, association, joint stock company, syndicate, partnership or corporation.

(Ord. No. 46-552 § 2)

Sec. 11.99.030. Unlawful acts.

It is unlawful and a violation of this chapter for any person to fail to comply with the following regulations when involved in the towing or request of towing of motor vehicles from private property:

- A. Notification. The property owner or person requesting the towing of or the removal of a vehicle from private or public property shall, within one hour of completion of such towing or removal, notify the Wichita police department records bureau of the following information concerning the tow or removal:

(1) Vehicle make;

PTLR 11.99. PRIVATE TOWING REGULATIONS

- (2) Vehicle model;
- (3) Vehicle year;
- (4) Vehicle VIN;
- (5) License plate number;
- (6) Ultimate destination where vehicle is towed to and stored;
- (7) Person ordering the tow;
- (8) Address from which the vehicle is towed.

B. Notice and Sign Requirements. Except for property appurtenant to and obviously a part of a single-family residence, and except for instances when notice is personally given to the owner or other legally authorized person in control of the vehicle that the area in which that vehicle is parked is reserved or otherwise unavailable for unauthorized vehicles and thus are subject to being removed at the owner's or operator's expense, any property owner or person in legal possession of the property, prior to towing or removing any vehicle from private or public property without the consent of the owner or other legally authorized person in control of that vehicle, must post a sign meeting the following requirements:

- (1) The sign must be prominently placed at each driveway access or curb cut allowing vehicular access to the property, within five feet from the public right-of-way line. If there are no curbs or access barriers, the signs must be posted not less than one sign for each twenty-five feet of lot frontage;
- (2) The sign must clearly indicate, in lettering of at least one and one-half inches high and one-half inch wide, that unauthorized parking is prohibited and further clearly marked with lettering of at least one inch high and three-eighths inch wide indicating that unauthorized vehicles will be towed away at the owner's expense;
- (3) A business with twenty or fewer parking spaces satisfies the notice requirements of this section by prominently displaying a sign stating "Reserved parking for customers only. Unauthorized vehicles will be towed away at the owner's expense." in light-reflective letters on a contrasting background.

(Ord. No. 46-552 § 3)

Sec. 11.99.040. Nonapplicability to governmental vehicles and tows.

The provisions of this chapter shall not apply to law enforcement, firefighting, rescue squad, ambulance or other governmental vehicles which are marked as such, or to property owned by any governmental entity.

(Ord. No. 46-552 § 4)

Sec. 11.99.050. Penalty.

Any person that violates the provisions of this chapter shall be fined not less than one hundred dollars nor more than one thousand dollars. In addition to such fine the court may sentence any person convicted hereunder to no more than thirty days in jail.

(Ord. No. 46-552 § 5)