

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 8:35 a.m. on February 4, 2010, in Room 152-S of the Capitol.

All members were present.

Committee staff present:

Bruce Kinzie, Office of the Revisor of Statutes
Daniel Yoza, Office of the Revisor of Statutes
Julian Efird, Kansas Legislative Research Department
Jill Shelley, Kansas Legislative Research Department
Cindy Shepard, Committee Assistant

Conferees appearing before the Committee:

Charles M. Letcher, Treasurer, Johnson County, Kansas
Vicky Johnson, Chief Counsel, Kansas Department of Transportation
William Sneed, Legislative Counsel, State Farm Insurance Companies
Kerri Spielman, Director of Government Affairs, Kansas Association of Insurance Agents

Others attending:

See attached list.

The Chairman opened the hearing on **SB 408 - County treasurers, additional locations for vehicle registrations**. Bruce Kinzie, staff revisor, reviewed the bill.

Charles M. Letcher, Treasurer, testified on behalf of Johnson County in favor of **SB 408**. He stated that they support this measure to more clearly define the intent of K.S.A. 8-145d. The term satellite registration facility is not clearly defined, leaving the intent of the statute open for interpretation. The additional language will allow the registration fee of up to \$5 at a satellite facility to be charged at any facility used for motor vehicle registrations, excluding a location within the courthouse or the administrative office used as the primary location for Treasurer's operations (Attachment 1).

Written testimony in support of **SB 408** was submitted by:

Randall Allen, Executive Director, Kansas Association of Counties (Attachment 2)

There being no further conferees, the hearing on **SB 408** was closed.

Following discussion Chairman Umbarger called for action on **SB 408** as drafted. Senator Donovan moved, Senator Petersen seconded, to recommend SB 408 favorably for passage. Motion failed.

Senator Apple moved, Senator Kultala seconded, to reconsider SB 408 with an amendment designating a primary location that has no additional fee. Motion carried.

The Chairman opened the hearing on **SB 462 - Regulating traffic, liability for damage to highway or structure**. Bruce Kinzie, staff revisor, reviewed the bill.

Vicky Johnson, Chief Council, Kansas Department of Transportation (KDOT), appeared as a proponent of **SB 462**. She indicated under existing law a driver is liable for all damage caused by the driver to a highway or highway structure. **SB 462** would add that the driver and the owner of the vehicle are liable for the damages and also the direct and reasonable consequential costs associated with the repair. Consequential costs would be defined as, but not limited to, costs associated with damage assessment, engineering and design requirements, mobilization, traffic control and detour costs (Attachment 3).

Ms. Johnson noted that KDOT is aware of the issues the insurance industry has with removing the term "illegal" from the statute, and she would work with them to clean up language to satisfy their concerns.

Written testimony in support of **SB 462** was submitted by:

Melissa Wangemann, Director of Legislative Services, KS Association of Counties (Attachment 4)

CONTINUATION SHEET

Minutes of the Senate Transportation Committee at 8:35 a.m. on February 4, 2010, in Room 152-S of the Capitol.

William Sneed, Legislative Counsel, representing State Farm Insurance Companies, spoke in opposition of **SB 462** as it is currently written. He stated that under current law, K.S.A. 8-1913 does not affect insurance coverages as these damages are the result of an illegal operation and thus are not covered by one's automobile insurance. It is in their opinion, that this bill would greatly expand insurance coverages, thus the cost of insurance as well (Attachment 5).

Kerri Spielman, Director of Government Affairs, Kansas Association of Insurance Agents, presented testimony in opposition to **SB 462** as written. She indicated that the way the bill is written, striking the word illegal, any driver would be responsible for costs to repair damages. The change to require all drivers be liable for all costs and giving consequential costs an unlimited definition, seems the equivalent of demanding Kansans and insurance companies simply sign a blank check to the State of Kansas resulting in unaffordable insurance (Attachment 6).

Written testimony in opposition to **SB 462** was submitted by:

Martha Neu Smith, Executive Director, Kansas Manufactured Housing Association (Attachment 7)

Mary Jane Stankiewicz, COO and Senior Vice President of Kansas Grain and Feed Association
(Attachment 8)

Bill Miller, President Midwest Crane and Rigging (Attachment 9)

After questions and discussion, KDOT indicated they would meet with the opposition to address the issues in the bill language and return before the Committee with the changes.

There being no further conferees, the hearing on **SB 462** was closed.

The meeting was adjourned at 9:15 a.m. The next meeting is scheduled for February 9, 2010.

SENATE TRANSPORTATION COMMITTEE GUEST LIST

DATE: 2-4-10

NAME	REPRESENTING
Bill Sneed	State Farm
Dan Rablin	KDOT
Kerri Spulman	KATA
Manda Sue Smith	KMHA
Tom Whitaker	KMCA
KEVIN GREGG	KMCA
Rick Wilborn	Formcos Alliance
Charles Litcher	Johnson County
MARK BOZANYAK	CAPITOL STRATEGIES
Mary Jane Stankiewicz	KGFA
Tom Burger	Midwest Crane Rigging
Lori Church	KAPCIC
LeeAnn Phelps	KDOR
Ray Wille	KDOR - DoV
Mike Star	Lb Co Farm Bureau
Ken Petersen	Lb Co Farm Bureau
Wendy	KAPA-KEMCA
Stinger Roberts	KFB Allen Co.
Lynda Foster	KFB-Bourbon Co.



TESTIMONY

Committee on Transportation

Senate Bill No. 408

February 4, 2010

Senator Dwayne Umbarger, Chairman and members of the Committee on Transportation, my name is Charles M. Letcher, Treasurer of Johnson County and I thank you for the opportunity to testify on behalf of Johnson County in favor of Senate Bill No. 408. We support this measure to more clearly define the intent of K.S.A. 8-145d. Currently, K.S.A. 8-145d allows county treasurers the option to charge a satellite registration fee of up to \$5 at a satellite registration facility used for motor vehicle registrations, however the term "satellite registration facility" is not clearly defined, leaving the intent of the statute open to interpretation. Johnson County is requesting that the word "satellite" be removed for the existing language of K.S.A. 8-145d and a clear definition of the type of facility that qualifies for the additional fee be included. The additional language will allow the fee to be charged at any facility used for motor vehicle registrations provided the county has multiple registration facilities, excluding a registration facility located within the courthouse or the administrative office used as the primary location for Treasurer's operations. These revisions would not impact the manner in which other Kansas counties currently conduct their motor vehicle operations.

Johnson County does not collect this fee at our motor vehicle facilities at this time, but we are giving consideration to the implementation of this fee in an effort to reduce ad valorem support for our motor vehicle operations. Johnson County has two locations where citizens may register or title their vehicles, and neither is in the Administration Building where the Treasurer's primary office resides. Since no motor vehicle business is done in our primary office, we believe the additional fee could be charged at both of our motor vehicle facilities but the existing language in K.S.A. 8-145d does not clearly state whether this is the intent of the statute. Therefore, we are proposing additional language to clearly define motor vehicle facilities allowed to charge the additional fee. Based on these reasons, Johnson County supports SB 408.

In conclusion, on behalf of Johnson County Government, I am respectfully requesting that the proposed revisions to language in K.S.A. 8-145d be advanced from this committee for further action. Thank you for your attention and I will be happy to stand for questions.

Senate Transportation
2-4-10
Attachment 1



WRITTEN TESTIMONY
concerning Senate Bill No.408
re. Vehicle Registration Fees in Non-Courthouse Locations
Senate Transportation Committee
Submitted by Randall Allen, Executive Director
Kansas Association of Counties
February 4, 2010

Chairman Umbarger and members of the committee, I appreciate the opportunity to submit written testimony on behalf of our Association *in support of SB 408*, concerning vehicle registration fees in non-Courthouse (or central county administration) facilities.

The intent of this bill is to clarify the authority of county treasurers to charge a \$5 per vehicle registration fee in outlying vehicle registration facilities as established by county treasurers, but not in any registration facility within a county courthouse or county administrative office where the county treasurer's primary offices are housed. The current statute (K.S.A. 8-145d) authorizes such \$5 fee in "satellite" registration facilities without defining what a satellite facility is. As such, we believe that this clean-up legislation is consistent with the legislative intention when the existing statute was enacted several years ago.

While this bill is brought by Johnson County, we understand that there is no adverse impact on the remaining 104 counties. Accordingly, we urge the committee to report this bill favorably for passage. Thank you for receiving this testimony.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randall Allen or Melissa Wangemann by calling (785) 272-2585.

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Topeka, KS 66603-3912
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Senate Transportation
2-4-10
Attachment 2

**TESTIMONY BEFORE
SENATE TRANSPORTATION COMMITTEE**

**REGARDING SENATE BILL 462
RELATED TO COLLECTION OF CONSEQUENTIAL DAMAGES**

February 4, 2010

Good morning Mr. Chairman and members of the committee. I am Vicky Johnson, Chief Counsel with the Kansas Department of Transportation (KDOT). Thank you for giving KDOT this opportunity to express its strong support for Senate Bill 462.

Under existing law a driver is liable for all damage caused by the driver to a highway or highway structure. Senate Bill 462 would add that a driver and the owner of the vehicle are liable for not only the damage caused by the driver to a highway or highway structure, but are also liable for direct and reasonable consequential costs associated with the repair. Consequential costs would be defined as, but not be limited to, costs associated with damage assessment, engineering and design requirements, mobilization, traffic control and detour costs.

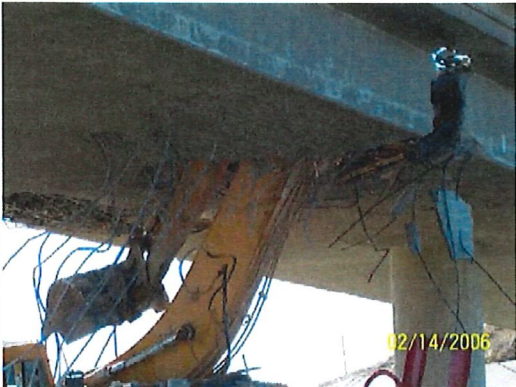
Currently, KDOT seeks reimbursement for the costs of repairs from the responsible party's insurance company, and owners of vehicles for damage caused to a highway or highway structure. Over the last five years, KDOT has, on average, collected over \$1 million per year to reimburse KDOT for expenditures in repairing damage caused to highways and highway structures. The most common damage sustained by KDOT property is damage to traffic control signs and guardrail. Those items are generally replaced in kind and damage assessment, engineering and design work, mobilization, significant detours, and extensive traffic control are generally not required in the repair. Consequently, the costs associated with the majority of KDOT repairs are recovered, under existing law, without much difficulty.

However, occasionally a bridge or an overhead structure sustains extensive damage and costs are incurred by KDOT in repairing the structure that are not directly associated with replacing the damaged portion of the structure, but are necessarily crucial to the repair process. For example, on February 13, 2006, a tractor-trailer carrying a track loader impacted a span of the Hall Street Bridge over I-70 in Hays, Kansas. (See attached picture.) KDOT initiated an emergency repair with a local contractor, and on January 24, 2007, the project was completed. The cost to KDOT for the repair of the bridge was approximately \$673,000. This figure included \$297,000 of necessary consequential costs such as damage assessment, engineering and design requirements, mobilization, traffic control and detour costs. The equipment hauler's insurance company maintained that under K.S.A. 8-1913 they were only liable for the damage to the structure, and were not liable for the costs associated with assessing the damage to the bridge, designing the repair, maintaining detour roads, nor providing traffic control for the closed bridge and detour. After extensive negotiations, KDOT was forced to accept the insurance company's offer of \$426,000 as the amount recoverable under K.S.A. 8-1913.

Senate Bill 462 would allow KDOT and other governmental entities to recover all of the costs associated with damage to a highway or structure, including those costs which are associated with repairing the damaged highway or highway structure.

KDOT strongly supports Senate Bill 462. I would be happy to stand for questions at the appropriate time.

Hall Street Bridge over I-70 in Hays, Kansas





TESTIMONY TO THE SENATE TRANSPORTATION COMMITTEE
ON SB 462
FEBRUARY 4, 2010

Chairman Umbarger and Members of the Committee:

I am Melissa Wangemann, representing the Kansas Association of Counties. I appreciate the opportunity to submit written testimony in support of Senate Bill 462.

This bill modifies KSA 8-1913, which is the statute that counties use to recover damages to roads, culverts, and related facilities resulting from vehicle accidents on county roads. The current statute restricts the amount to be recovered to actual damages. The counties, and ultimately the taxpayers, absorb the incidental costs such as damage assessment, temporary repairs, traffic control, and engineering if structural damage occurs. SB 462 allows these additional costs to be recovered similar to damages that can be recovered in a civil lawsuit.

We ask that you support SB 462.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Melissa A. Wangemann', is written over the printed name.

Melissa A. Wangemann
General Counsel and Director of Legislative Services

TO: The Honorable Duane Umbarger, Chairman
Senate Transportation Committee

FROM: William W. Sneed, Legislative Counsel
The State Farm Insurance Companies

SUBJECT: S.B. 462

DATE: February 4, 2010

Mr. Chairman, Members of the Committee: My name is Bill Sneed and I represent the State Farm Insurance Companies. State Farm is the largest insurer of homes and automobiles in Kansas. State Farm insures one out of every three cars and one out of every four homes in the United States. Please accept this memorandum as opposition to S.B. 462 as it is currently written.

Not being involved with the drafting of S.B. 462, I am uncertain as to the intent the proponents of the bill are seeking with this proposal. Thus, we are opposing the bill as it is currently written, and we would be happy to discuss this further with the proponents.

Initially, K.S.A. 8-1913a provides for the recovery of damage to any highway or highway structure sustained as a result of any illegal operation. The bill as it is currently written adds the phrases "costs, including direct and reasonable consequential costs, associated with the repair of the damages" and has also eliminated the term "illegal." Additionally, there is a definition of "consequential costs" but the definition is stated in a way that is more a listing of examples, and not a limitation.

Under current law, K.S.A. 8-1913 does not affect insurance coverages as these damages are the result of an illegal operation and thus are not covered by one's automobile insurance. Thus, it appears that the proponents of the bill wish to expand the liability to automobile coverages current in effect. If that is the truly their intent, and without any direct limitation on a company's ability to exempt such coverages from its policies, it is our opinion that this bill would greatly expand insurance coverages, thus the cost of the insurance as well.

Kansas currently enjoys having one of the lowest automobile insurance rates in the United States. Under the current economic conditions, adding to those costs seems inappropriate. Further, we must keep in mind that automobile insurance is mandatory, and if costs do rise, that does have a direct correlation to the rising rate of uninsureds rising, as well.

Based upon the foregoing, we would respectfully request that the Committee not act favorably on S.B. 462.

555 South Kansas Avenue, Suite 101

Tope

Telephone: (Senate Transportation

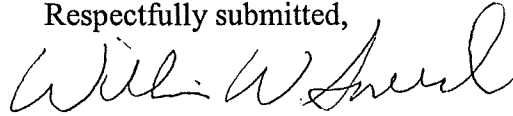
Fax: (2-4-10

Attachment 5

The Honorable Duane Umbarger, Chairman
Senate Transportation Committee
February 4, 2010
Page 2

I am available for questions at your convenience.

Respectfully submitted,

A handwritten signature in cursive script that reads "William W. Sneed". The signature is written in dark ink and is positioned below the typed name.

William W. Sneed

WWS:kjb

cc:

/

Kansas Association of Insurance Agents



**Testimony on Senate Bill 462
Before the Senate Transportation Committee
By Kerri Spielman
February 4, 2010**

Thank you, Mister Chairman and members of the committee, for the opportunity to appear today in opposition to SB 462 as written. My name is Kerri Spielman and I represent the Kansas Association of Insurance Agents. We have approximately 435 member agencies across the state and another 110 branch offices that employ a total of over 2,500 people. Our members write roughly 70% of the commercial property and liability insurance in Kansas and 35% of the personal insurance. Independent agents are free to represent a number of different insurance companies.

Message to Kansans: Don't Drive in Kansas

The way this bill is written, striking the word *illegal*, any driver who may be unfortunate enough to have an accident on any highway in Kansas would be responsible for costs to repair damages. In other words, if a driver hit a pothole, lost control of the vehicle and damaged a highway or highway structure, the driver would be responsible for all costs associated with the repair. This sends the message: Drive on Kansas highways at your own financial peril.

Increasing Costs = Increasing Uninsured Motorists

Kansans enjoy one of the lowest automobile insurance rates in the country. The change to require that *all* drivers (regardless of whether they are operating a vehicle legally or illegally) be liable for all costs, including direct and reasonable consequential costs associated with the repair and giving consequential costs an unlimited definition seems the equivalent of demanding Kansans and insurance companies simply sign a blank check to the State of Kansas. The consequence of this language would likely be rapidly escalating insurance rates that ultimately result in unaffordable insurance, possibly denial of coverage, and a rising number of uninsured motorists.

KAIA Supports Sound Public Policy

We support laws that promote safety on the roads. Drivers operating vehicles illegally or outside the bounds of a special permit should have consequences. This legislation does not promote safety on the roads – its punitive measures against drivers legally utilizing highways would ultimately result in greater fiscal exposure to the state.

We respectfully request that the committee not pass SB 462 as written.



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TO: Senator Dwayne Umbarger, Chairman
And Members of the
Senate Transportation Committee

FROM: Martha Neu Smith
Executive Director

DATE: Thursday, February 4, 2010

RE: SB 462 – Regulating traffic, liability for damage to highway or structure

Chairman Umbarger and members of the Committee, my name is Martha Neu Smith and I am the Executive Director for Kansas Manufactured Housing Association (KMHA) and I appreciate the opportunity to provide written comments in opposition of SB 462 – Liability for damage to highway or structure.

KMHA is a statewide trade association, which represents all facets of the manufactured and modular housing industry including manufacturers, retail centers, community owners and operators, finance and insurance companies, service and supplier companies and transport companies.

KMHA would like to voice our opposition to the changes proposed to K.S.A. 8-1913. As I read the proposal any damage to a Kansas highway by a motorist regardless of whether the driver performed a legal action or not that driver will be responsible for all actual and consequential cost involved in the repair of the highway. Not only does this proposal have the potential for increasing the cost of insurance for individuals or companies using Kansas' highways but it seems inherently unfair to the careful driver who obeys the law but happens to be in the wrong place at the wrong time and will now be penalized by the State of Kansas.

KMHA would respectfully ask that the Transportation Committee not pass this bill out of Committee. Thank you for your consideration.

Senate Transportation
2-4-10
Attachment 7



Kansas Grain & Feed Association

Kansas Agribusiness Retailers Association

Senate Transportation Committee

SB 462 - Liability for Damage to a Highway

February 4, 2010



816 SW Tyler, Suite 100
Topeka, Kansas 66612

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Good morning Chairman Umbarger and members of the Senate Transportation Committee. I am Mary Jane Stankiewicz, the COO and Senior Vice President of the Kansas Grain and Feed Association. The KGFA is a voluntary state association with a membership encompassing the entire spectrum of the grain receiving, storage, processing and shipping industry in the state of Kansas. KGFA's membership includes over 950 Kansas business locations and represents 99% of the commercially licensed grain storage in the state.

A significant portion of our grain is trucked throughout the state, some through contract truckers and some through our own licensed drivers. Because of this I appear before you to ask questions about the impact of this bill. Let me outline a few of the items or issues that I am unclear as to their meaning and impact:

- Section 1, line 18 – why is the word “illegal” stricken? Does that now mean that someone who is legally hauling grain down a highway could be somehow responsible for the direct and reasonable consequential costs? The basic premise of statutory construction is that there is meaning behind striking or inserting a word and I am not sure what is the significance of this change. I could understand why people who are illegally operating a vehicle could be responsible for damages but I am unclear as to why someone who is lawfully operating a truck would be responsible for the direct and consequential damages.
- Who decides who is charged with the costs if it is not caused by an illegal action? Most damages or cost recovery systems focus on the person who is guilty of some crime or unlawful activity being the responsible party?
- Will this in reality raise the insurance rates for the trucking industry and all those that depend on the trucking industry?
- Why is the party responsible for “engineering and design requirements”? Does this mean if the road system is flawed and contributes to an accident that the driver could still be liable for these costs?

Thank you for your time and attention and I appreciate your consideration of these items.

Senate Transportation
2-4-10
Attachment 8

MIDWEST CRANE AND RIGGING

15585 S. KEELER • P.O. BOX 970 • OLATHE, KANSAS 66051-0970
(913) 747-5100 • FAX (913) 764-0102

February 4th, 2010

Senate Committee on Transportation
Re: Senate Bill No. 462

Chairman Umbarger and Committee:

My name is Bill Miller. I am president of Midwest Crane and Rigging, LLC. We operate a crane service and provide trucking through a subsidiary named MCR Transport. We have offices in Olathe and Topeka in Kansas and St. Joseph, Mo.

This letter is to strongly oppose Senate Bill No. 462. By making any company liable for actual and open ended consequential damages for any road or structure that is damaged while legally moving an over weight load would cause insurance rates to skyrocket and possibly make insurance for this type of claim unavailable.

It would likely cause trucking companies to avoid Kansas and cost Kansas businesses huge amounts of money to move machinery and equipment within this state.

Over weight loads are moved on highways designated by the permit offices. The mover does not choose the route. The mover cannot be responsible for damages to roads and structures that they are directed use while performing legal movement of overweight loads.

This Bill is seriously flawed and I urge this Committee to reject Senate Bill No. 462.



William R. Miller
President
Midwest Crane and Rigging

Topeka Branch
711 1/2 24 Hwy
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Senate Transportation
2-4-10
Attachment 9