

MINUTES OF THE HOUSE COMMITTEE ON TRANSPORTATION.

The meeting was called to order by Chairman Rex Crowell at 1:30 p.m. on February 8, 1993 in Room 519-S of the Capitol.

All members were present except: Rep. S. Lloyd, Excused  
Rep. R. Reinhardt, Excused

Committee staff present: Tom Severn, Legislative Research Department  
Hank Avila, Legislative Research Department  
Bruce Kinzie, Revisor of Statutes  
Donna Luttjohann, Committee Secretary

Conferees appearing before the committee: Rep. Marvin Smith  
Jack Tierce, KCC  
Rep. Kathleen Sebelius  
Lon Ingram, KDOT  
Hank Avila, Legislative Research Department  
Pat Wiechman, KADRA  
Steve Wiechman, General Counsel, KADRA  
Dale Lehning, KADRA  
Melvin Eschbaugh, Topeka Salvage Pool, Inc.  
Ed Newsom, Kansas City Salvage Pool  
Bruce Kinzie, Revisor of Statutes

Others attending: See attached list

Chairman Crowell opened the meeting accepting bill requests. Rep. Marvin Smith made the motion to introduce legislation regarding the state taxation exemption on motor fuel delivered to a retail dealer on an Indian reservation and that motor fuel is sold or delivered to a nonmember of the reservation. It was seconded by Rep. Shore. The motion carried.

Jack Tierce, KCC, requested legislation to amend the registration provisions of Motor Carriers. See Attachment 1.

Rep. Kathleen Sebelius requested legislation be introduced in regard to providing license plates to surviving spouses of POW's. Rep. Dillon made the motion to introduce the legislation. It was seconded by Rep. Correll. The motion carried.

Lon Ingram, Kansas Department of Transportation, requested legislation be introduced to make it unlawful to operate any vehicle having only one tire on each end of an axle when the axle is intended to have dual tires on each end. See Attachment 2. Rep. Dillon made the motion to introduce the legislation. It was seconded by Rep. Pauls. The motion carried.

Chairman Crowell then opened the hearing on HB 2195. He requested Hank Avila, Legislative Research Department to summarize the bill. After summation, questions by the committee were answered. Rep. Shallenburger noted that on page 2, line 17 should read "c" instead of "b". Bruce Kinzie, Revisor of Statutes suggested further numbering revisions of the bill to coincide with the initial change in line 2.

The Chairman then recognized Pat Wiechman, KADRA, who testified as a proponent of the bill. See her written testimony in Attachment 3. Questions of the committee were answered. Steve Wiechman, General Counsel for KADRA, was recognized to answer questions. Dale Lehning, A-1 Auto Salvage was called to offer feedback regarding the length of time contaminants remain on the premises.

Chairman Crowell recognized Melvin Eschbaugh, Topeka Salvage Pool, Inc., who testified on the bill. He called attention to the fact that this bill would have a negative impact on his business should it be passed. Questions from the committee were answered. Mr. Eschbaugh submitted written testimony on

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TRANSPORTATION, Room 519-S Statehouse, at 1:30 p.m. on February 8, 1993.

February 11, 1993, to acknowledge and support the statements made to the committee. See Attachment. 4.

Ed Newsom, Kansas City, requested to testify before the committee as an opponent of the bill. He also stated the negative impact this bill would have on his business if it should be passed into law. Questions were answered of the committee.

The Chairman then closed the hearing on HB 2195.

Chairman Crowell recognized Bruce Kinzie, Revisor of Statutes, who explained a bill request he had received, specifying which vehicles did not have to be designated by the Board of County Commissioners as authorized emergency vehicles. Rep. Pauls made the motion to introduce the legislation. Rep. Haulmark seconded the motion. The motion carried.

Chairman Crowell adjourned the meeting at 2:43 p.m.

The next meeting is scheduled for February 9, 1993, in Room 519-S of the Capitol.

STATEMENT OF THE  
STATE CORPORATION COMMISSION

Presented to the House Transportation Committee  
February 8, 1993

Mr. Chairman and Members of the Committee:

My name is Jack Tierce and I am the Deputy Director of the Transportation Division, State Corporation Commission. Congress passed and the President signed into law the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 which significantly amends 49 U.S.C. 11506 - Registration of Motor Carriers by a State. In essence, it eliminates the so-called "bingo card" program for ICC regulated motor carriers.

This law mandates a Single State Registration System under which a carrier:

1. files and maintains evidence of certificates or permits in a single "registration" state
2. files proof of insurance with a single "registration" state
3. pays the registration state fees that are subject to allocation among all states in which the carrier operates and which participates in the system

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4. keeps in each of its commercial vehicles a copy of a receipt issued by the registration state
5. files the name of a local agent for service of process.

K.S.A. 66-1a01, 66-1,128, 66-1,116, 66-1,139, 66-1,129a, 66-1-115 and 60-305a should be amended to reflect the implementation of the Single State Insurance Registration Regulation which will become effective January 1994. It should be noted that the ICC is in the rule making process, however, they have not been issued. A motor carrier operating in interstate commerce and registered by the Interstate Commerce Commission will register only in their base state. They will no longer register in each state in which they plan to operate. The base state will collect and distribute the fees for each state that the motor carrier designates. No fees may be charged for registration of a regulated carrier's authority; only the fee to register each power unit.

Kansas will lose \$3-5 million annually in motor vehicle registration fees beginning January, 1994 if the motor carrier laws in Chapter 66 Kansas Statutes Annotated are not amended. The State Corporation Commission collects these fees which are transferred to the Highway Fund.

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### BACKGROUND INFORMATION

The Commission had 14,589 interstate regulated motor carriers registered @ \$10.00 each and 470,445 interstate regulated motor vehicles registered @ \$10.00 each in 1992. Beginning January 1, 1994 this new federal law will not allow the Commission to charge a motor carrier a fee to register their authority. However, Kansas can continue to charge the \$10.00 annual power unit fee if legislation is enacted to allow participation.

Due to the language in the federal legislation, Kansas will lose the motor carrier registration fee and without changes in Chapter 66, Kansas Statutes Annotated (Motor Carrier Laws) \$3-5 million will be lost annually beginning January 1, 1994. (NOTE: Motor vehicle registration with the KCC actually begins in October, 1993.)

### CONCLUSION

The Commission would request that the committee respond favorably.

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Michael L. Johnston  
*Secretary of Transportation*

KANSAS DEPARTMENT OF TRANSPORTATION  
*Docking State Office Building*  
*Topeka 66612-1568*  
*(913) 296-3566*  
*FAX - (913) 296-1095*

Joan Finney  
*Governor of Kansas*

**PROPOSED LEGISLATION  
PROVIDING CERTAIN RESTRICTION  
ON THE USE OF SINGLE TIRES**

The purpose of this proposed legislation is to make it unlawful to operate any vehicle having only one tire on each end of an axle when such axle is intended to be operated with dual tires on each end.

The proposed legislation allows exceptions in emergency situations.

The proposed legislation establishes a penalty for violation of the restriction set forth. A violation is considered to a non-moving violation subject to a \$10 fine.

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## HOUSE TRANSPORTATION COMMITTEE

February 8, 1993

### House Bill No. 2195

Chairman Crowell, Members of the Committee:

I am Pat Wiechman, executive director for the Kansas Automotive Dismantlers and Recyclers Association.

House Bill 2195 is the result of K.A.D.R.A. and the Division of Vehicles working over the past year to prepare changes to the Kansas Dealer Licensing Law as it applies to the salvage vehicle industry. The need for better control of the salvage vehicle industry has been recognized not only by K.A.D.R.A. members, but law enforcement, including the Kansas Highway Patrol. The Inspectors for the Division of Vehicles, the Division Administrators and the Director of Vehicles have also expressed that concern. On a national level, increased concern for better control of used parts and salvage vehicles has been expressed by the A.A.M.V.A. and various federal agencies. It is believed that there is a direct connection between stolen vehicles and the control of used parts and salvage vehicles.

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1101 W. 10 Topeka, Kansas 66604

913-233-1666 - Fax - 233-8893



Some of you may have seen the segment on the national television program *48 Hours*. The show documented how **you** could end up owning a stolen vehicle. The story commenced with a backyard "strip shop" where vehicle parts were stored. The scene then moved to the auctioning of vehicles at a salvage vehicle pool where the vehicles seemed to bring bids that made the viewer wonder how a legitimate person could afford to pay such prices. Next, the camera went to a shop where vehicles were being rebuilt and to a vehicles sales lot. When the program crew checked the VIN's of the vehicles offered for sale, it was found that several of the vehicles had been stolen and stripped, recovered, sold through the salvage pool and mysteriously rebuilt with parts that came from stolen vehicles. It became apparent that vehicles were being stolen, stripped of parts, placed so they would be recovered after payment had been made to the insured vehicle owner, then purchased through the salvage pool and rebuilt with the parts that had been removed. The comment was made on the program by the salvage pool owner/auctioneer that the only way to afford such a price at the salvage pool was to already have the parts needed to rebuild the vehicle, especially if those parts were obtained without cost. Please don't interpret this to reflect that such is the case at any of the salvage pools in Kansas. But, with less reputable people involved, the potential exists.

Controlling who is allowed to buy at a salvage vehicle pool, is a major step in controlling what is sold. Right now in Kansas, without control, anyone - dealer or general public - can buy any of the hundreds of vehicles that are sold through a salvage vehicle pool each month. Additionally, when the general public buys, there is a potential loss of sales tax revenue.

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As a specific example of the need for control in Kansas, a study was done with the cooperation of undercover law enforcement. Vehicles of a certain type were noted as they were sold through a salvage vehicle pool in this state. With the knowledge of the color and type of vehicle, those conducting the study were able to predict not only the theft of the vehicle but exactly the kind and color of vehicle that would be stolen from somewhere in the area, immediately following the sale.

While I was preparing this testimony, a man came into our office with a friend. The man told me that he operates a "recycling center" in the southern part of our state. He informed me that he was told by the health department in his county that he doesn't have to do any of the licensing things for cars, since he only handles about 30 cars a year and then he just buys and crushes them. When asked what becomes of the titles, he said, "most of them don't have titles." He said there are a lot of guys down there that go around buying cars and either getting the parts off of them to sell or just crushing them and selling them to the shredders. "It's an easy way to make a living." This is not an exceptional occurrence. This sort of thing is happening every day all across our state.

HR 2195 gives improved definitions and parameters that reflect changes in the salvage vehicle industry. The "junk yard" of 25 years ago has been replaced by computerized salvage yards where the numbered inventory is racked for storage. The Federal Clean Air Act imposes severe penalties for freon pollution; the Federal Clean Water Act requires that salvage vehicle dealers comply with permitting requirements that are specifically directed at the salvage vehicle industry under Standard Industrial Classification Code 5015. As an industry, we are proud of our efforts to modernize and support efforts to rescue



Planet Earth. After all, we are the *Original Recyclers*, we've been recycling since long before it was the stylish thing to do. Those parting out cars illegally have no reason to do anything to protect our environment.

Why would an industry advocate more regulation? No one wants to be under more control. However, the fact is, a legitimate business cannot compete with crooks. Kansas salvage vehicle dealers must meet the requirements of state and local zoning and licensing; they must comply with the federal and state Highway Beautification Acts; they are required to purchase expensive equipment to avoid polluting the atmosphere; and they must meet permitting requirements which include expensive testing to comply with the Federal Clean Water Act. Additionally, most of the salvage yards today try to keep their yards looking clean and weed-free with the parts stored neatly on racks and with showrooms or sales offices that are pleasing to be in. The illegal operations do not have any of those expenses and sometimes they don't even pay for the vehicles that are parted out. The Highway Patrol and the Inspectors for the Division need improved means for enforcement and control.

In Kansas, the only operation that can legally sell used vehicle parts is the salvage vehicle dealer who has met all the state and federal requirements. But, apparently, that isn't enough. In practically every community in Kansas there are operations that are not licensed salvage vehicles dealers who are buying cars, with or without titles, parting out the cars and selling the parts. This type of operation is one of the disposal points for theft vehicles. As long as the criminal continues to operate, there is a blemish on the industry and the community in general, along with a loss of revenue from taxes that would be generated by the legitimate business. A thief tries to hide his business, increased



standards make that concealment more difficult. There is simply no way the honest business can compete with the illegal operator who has little or no overhead. *Survival* is our motivation for seeking more control.

Many of the changes to the Kansas Dealer Licensing Law in HR 2195 are modeled after the Ohio law which is recognized across the country as being an outstanding salvage vehicle control law. The definition changes are designed to better address the salvage vehicle industry as it exists today in interaction with the international community. By using the Standard Industrial Classification code in the definition of salvage vehicle dealer, Kansas conforms to the existing structure of American industry. Quoting from the *Standard Industrial Classification Manual*, "The Standard Industrial Classification (SIC) was developed for use in the classification of establishments by type of activity in which they are engaged; for the purposes of facilitating the collection, tabulation, presentation, and analysis of data relating to establishments; and for promoting uniformity and comparability in the presentation of statistical data collected by various agencies of the United States Government, State agencies, trade associations, and private research organizations." SIC code is now the standard used by federal agencies when addressing a given industry.

Since HR 2195 contains many changes to Kansas law and in order to avoid the possibility of inadvertently harming an existing business, "grandfather clauses" have been included.

There are some editorial changes that need to be made to the bill. On Page 1 at Line 17, it should read "subsection (c); on Page 14, at line 34 number (3) should be changed to (4); then on Page 15, (4), (5), (6), at lines 2, 4 and 12 should be changed to (5), (6) and (7).

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The Division has said that they will have no problem administering the changes in HR 2195. We believe that by working together with the Legislature, the Division of Vehicles, and law enforcement to raise industry standards in Kansas, we can help to deter vehicle theft and reduce the economic strain of illegal operations; produce increased tax revenue from a tax structure already in place; and contribute to reduced losses in the insurance industry.

K.A.D.R.A. appreciates the opportunity to present this information to you. Your favorable consideration of HB 2195 will be appreciated. I will attempt to answer any questions you may have.

Respectfully submitted,

Patricia M. Wiechman  
Executive Director



Topeka Salvage Pool, Inc.

726 N.E. Kincaid Road  
Topeka, Kansas 66616-9510

MELVIN L. ESHBAUGH  
President

(913) 235-3046  
Fax (913) 235-0639

February 11, 1993

Representative Rex Crowell  
State Capitol 431-N  
Topeka, KS 66612

Dear Mr. Chairman:

At the meeting of the House Transportation Committee held Monday, February 8, 1993, you invited me to submit written testimony on HB 2195 which relates to the regulation of salvage yards and salvage pools. I have commented mainly about salvage pools because that is the business I am in and the business about which I know the most.

Although I had only a short time to prepare for the meeting I raised questions about salesperson licenses for salvage pools; the bill's requirement for sales tax; adding dealers as persons to whom sales can be made without sales tax; requiring title on the premises or is a copy sufficient; requirements for disclosure of the owner and fencing requirements.

After leaving the meeting a number of other questions entered my mind and each day I think about the bill I have more questions. I have reached the conclusion that if you asked me again if I am a proponent or an opponent I would say I am opposed to the bill.

I have never been before the legislature before but I found it suspicious that the salvage dealers had written up a law regulating themselves. I found it more suspicious that the salvage dealers proposed a law regulating another industry without the participation or knowledge of that industry. I figured that since salvage dealers have plenty of work to do at their yards, they are too busy to propose legislation just for the good of the state. I figured there must be something in it for them. If government is to regulate business it needs to be to serve the public good, not to make it more convenient or more profitable for another industry.

I'm not sure I believe the bill can be changed enough to be a good one to pass, but at the least it ought to be looked at a lot more thoroughly.

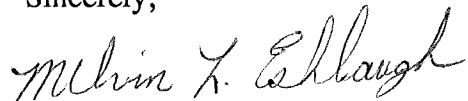
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I have spoken to other salvage pool operators and if the public or any governmental agency, including law enforcement, has a problem with the industry we are anxious to meet and work out a solution to the problem and support legislation to correct it. However, we do not support the self-serving legislation prepared by the salvage dealers which was drafted without our participation.

Thanks for letting me appear before the committee and submitting this written testimony. Although I was nervous I appreciate the kind way I was treated.

Sincerely,

A handwritten signature in cursive script that reads "Melvin L. Eshbaugh". The signature is written in dark ink and is positioned below the word "Sincerely,".

Melvin L. Eshbaugh