

MINUTES OF THE HOUSE COMMITTEE ON TRANSPORTATION.

The meeting was called to order by Chairman Rex Crowell at 1:30 p.m. on March 18, 1993 in Room 519-S of the Capitol.

All members were present except: Rep. Correll, Excused
Rep. Shallenburger, 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: Christine Andrade, Department of Transportation
Lt. Sam Grant, Kansas Highway Patrol
Matt Lynch
Dedra Platt, Department of Revenue
Bob Lee, Kansas Farmers Services Assn.
Joe Liber, Kansas Cooperative

Others attending: See attached list

Chairman Crowell opened the hearing on SB 295 regarding the removing of crossbucks and signals at abandoned railroads crossings.

Christine Andrade, representing the Department of Transportation was recognized by the Chairman as a proponent. See Attachment 1 for her written testimony.

Chairman Crowell closed the hearing on SB 295.

The Chairman opened the hearing on SB 361 regarding the regulation of traffic offenses and infractions involving juveniles.

Lt. Sam Grant was recognized by the Chairman. He testified as a proponent of the bill. See Attachment 2 for his written testimony.

Matt Lynch was recognized by Chairman Crowell as a proponent and testified on the bill.

The Chairman closed the hearing on SB 361.

Chairman Crowell opened the hearing on SB 368 regarding offenses for which a law enforcement officer may issue a person a written traffic citation.

The Chairman recognized Lt. Sam Grant to testify as a proponent of the bill. See Attachment 3 for his written testimony.

The Chairman closed the hearing on SB 368.

Chairman Crowell opened the hearing on SB 401 regarding motor vehicle fuel or special fuel exemption permit.

Dedra Platt from the Department of Revenue was recognized by the Chairman as a proponent of the bill. See Attachment 4 for her written testimony.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TRANSPORTATION, Room 519-S Statehouse, at 1:30 p.m. on March 18, 1993.

The Chairman recognized Bob Lee of the Kansas Farmers Services Association who testified as a proponent of the bill. See Attachment 5 for written testimony.

Joe Lieber of the Kansas Cooperative Council was recognized by the Chairman as a proponent of the bill. His written testimony is Attachment 6.

Chairman Crowell closed the hearing on SB 401.

A Subcommittee was appointed for SB 401 with Rep. Shore the Chairman, Rep. Lloyd, Rep. Dawson, Rep. McKinney and Rep. Rezac as members.

A Subcommittee was appointed for SB 295, SB 368 and SB 361 with Rep. Hendrix the Chairman, Rep. Pauls, Rep. Wells, Rep. Smith and Rep. Lawrence as members.

The Chairman requested that reports from both committees be ready on Monday, March 22, 1993.

Chairman Crowell adjourned the meeting at 2:50 p.m. with the next meeting scheduled for March 22, 1993, at 1:30 p.m. in Room 519-S of the Capitol.

GUEST LIST
HOUSE TRANSPORTATION COMMITTEE

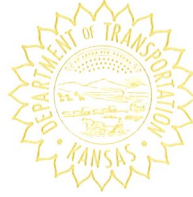
March 18, 1993

Name

Address

Representing

John W. Smith	Topeka	KDOR
Betty McBride	Topeka	KDOR
Christine Andrade	Topeka	KDOT
Bill Watts	Topeka	KDOT
Jul Luber	Topeka	Mo. Co-op Council
BOB LEE	HUTCHINSON	KS FARMERS SERVICE
Mime Meisenheimer	Hutch	" " "
Rosalie Thorburgh	Topeka	KDOT
Samuel Grant	Topeka	KHP
Tom Whitaker	TOPEKA	KS MOTOR GARAGES ASSN
JACK TIERCE	Topeka	KCC
Tom DAY	TOPEKA	KCC
Pat Hubbell	Topeka	Kans. Railroad Assoc.
Pam Somerville	TOPEKA	KS MOTOR CAR DEALERS ASSN



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

**TESTIMONY BEFORE
HOUSE TRANSPORTATION COMMITTEE
REGARDING S.B. 295:
REMOVAL OF CROSSBUCKS AND SIGNAL DEVICES BY RAILROADS**

March 18, 1993

Mr. Chairman and Committee Members:

The Department of Transportation has proposed S.B. 295 in an effort to provide safer railroad grade crossings which intersect highways or roads.

No law or regulation currently exists which requires railroad companies to remove railroad crossbucks or modify railroad crossing signals when a railroad is abandoned. Currently, K.S.A. 66-525 (a) defines abandonment as, "when the tracks, ties, and other components necessary for operation of the rail lines are removed...following an abandonment order..." Currently, crossbucks are allowed to remain in place and signal flashers are permitted to face traffic even after abandonment of the rail lines has occurred. Because these safety devices remain at crossings, all school buses, commercial buses, and vehicles carrying hazardous materials are required to stop before crossing the intersection unless one of the exceptions listed in K.S.A. 8-1553 exists. Those exceptions include marking the crossing with a sign reading "exempt." Because current statutes do not specifically require railroads to either remove the crossbucks or post an "exempt" sign, vehicles continue to be required to stop at many intersections with abandoned railroads.

Several local school bus coordinators have contacted the Department to complain about school buses having to stop at railroad crossings which are no longer in use. In one instance, because of existing safety devices at the railroad crossing, the school bus was required to stop even though no rails existed beyond the crossing surface. In this instance, no train could possibly use the crossing. The Department is concerned that school buses which stop at such crossings may unnecessarily expose the bus, its children passengers, and the traveling public to dangerous rear-end collisions. Senate Bill 295, as amended, would require railroads to remove crossbucks and modify signal devices or install "exempt" signs at all locations within 90 days of abandonment.

HOUSE TRANSPORTATION
Attachment 1
3/18/93

SUMMARY OF TESTIMONY

Before the House Transportation Committee

March 18, 1993

Senate Bill 361

Presented by the Kansas Highway Patrol
(Lieutenant Sam Grant)

Appeared in Support of Senate Bill 361

Mr. Chairman, members of the Committee, I appear before you today on behalf of Colonel Lonnie McCollum in support of Senate Bill 361.

This bill would amend K.S.A. 8-2117 to allow juveniles charged with registration and drivers license violations to be cited into district court. Currently, this law applies to the uniform act regulating traffic and excludes laws pertaining to registration and drivers license violations.

Additionally, K.S.A. 38-1602 is amended to allow a person who is 10 or more years of age but less than 14 who commits a traffic infraction (K.S.A. 8-2118) to be cited into district court. Traffic infractions are not criminal violations, rather they are considered civil in nature. Therefore, when a person between the ages of 10 and 14 commits a traffic infraction, the law makes no provision for dealing with them. This amendment would close this loop-hole in the law.

HOUSE TRANSPORTATION
Attachment 2
3/18/93

SUMMARY OF TESTIMONY

Before the House Transportation Committee

March 18, 1993

Senate Bill 368

Presented by the Kansas Highway Patrol
(Lieutenant Sam Grant)

Appeared in Support of Senate Bill 368

Mr. Chairman, members of the Committee, I appear on behalf of Colonel Lonnie McCollum and the Kansas Highway Patrol in support of Senate Bill 368.

Senate Bill 368 amends K.S.A. 8-2106 (Traffic Citation; Procedure) to include K.S.A. 8-262 (driving while suspended) to the listed violations for which a traffic citation may be issued.

Some courts in the state are requiring a long form complaint to be filed for a driving while suspended violation while others are permitting a traffic citation to suffice. This amendment will make it clear that a traffic citation for this traffic violation is acceptable.

HOUSE TRANSPORTATION
Attachment 3
3/18/93

STATE OF KANSAS



Alisa M. Dotson, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66625-0001

(913) 296-3044
FAX (913) 296-7928

Department of Revenue
Division of Taxation

MEMORANDUM

TO: The Honorable Rex Crowell, Chairman
House Transportation Committee

FROM: Dedra Platt, Administrator
Motor Fuel Tax Section
Kansas Department of Revenue

DATE: March 18, 1993

SUBJECT: Senate Bill 401

Thank you for this opportunity to appear before the Committee.

The Department of Revenue supports passage of Senate Bill 401. As introduced, the bill would remove the requirement that fuel be purchased in 40-gallon quantities to qualify for an exemption permit or to qualify for a refund on fuel for non-highway purposes. The bill provides that no refund will be issued until the refund amount exceeds \$25.00.

Senate Bill 551, enacted in 1992, moved the point of taxation on diesel fuel from the retailer/user level to the wholesale distributor level, conforming this fuel with regular motor-vehicle fuel. With the taxation of diesel at the distributor level, there are two main reasons for Senate Bill 401. One is that some key and card fuel systems produce information on a billing cycle only; and not for each purchase. The other is that some non-highway users may not purchase in 40-gallon quantities.

The Department estimates that passage of this bill would not have a fiscal impact on the Special City and County Highway Fund and the State Highway Fund, and that any administrative costs incurred would be minimal.

HOUSE TRANSPORTATION
Attachment 4-1
3/18/93

TESTIMONY ON S.B. 401
HOUSE TRANSPORTATION COMMITTEE
MARCH 18, 1993
PREPARED BY BOB LEE, DIRECTOR OF SERVICES
KANSAS FARMERS SERVICE ASSOCIATION
HUTCHINSON, KANSAS

Good Afternoon and thank you for giving us the opportunity to explain retailers position regarding S.B. 401. I am Robert E. Lee, President of the National Society of Accountants for Cooperatives and Director of Services for Kansas Farmers Services Association (KFSA). KFSA is a regional cooperative owned by 174 Kansas Agricultural Cooperatives. Those cooperatives serve approximately 175,000 Agricultural Producing families. Most, if not all, buy diesel fuel and gasoline used for tax exempt purposes.

S.B. 401 is indeed a great improvement with the removal of the present 40 gallon minimum requirement. Numerous ag-producers fill their off-highway vehicles at a tax exempt cardtrol/keytrol facility. Usually it is to top off the tank before returning to the field. Many times this fill will be less than 40 gallons. This requires the retailer to search every patron's month end statement and add tax to all patron purchases of less than 40 gallons. This is not only very time consuming for the retailer, it means the producer is paying tax on fuels used for tax exempt purposes. S.B. 401 will not only grant record keeping relief to retailers, it will give proper legal exemption to exempt users.

We would be remiss if we did not thank Dedra and her staff for

listening to retailer concerns and working to get this bill introduced. The forty gallon limitation has plagued retailers for years. More important, it stops the discrimination between Cardtrol and Keytrols.

The main issue is actually S.B. 551. Reducing the thousands of dollars of tax abuse was the intent and all responsible taxpayers agree with the purpose and agree that all taxpayers should pay all taxes they legally owe. But, will the law which becomes effective July 1, 1993 stop or even limit such abuse? Most persons working with exempt users are of the opinion it does little to discourage abusers. Instead of curtailing abuse it creates monumental record keeping problems for exempt users and retailers and will generate monstrous piles of paper to be processed by the Kansas Department of Taxation (KDT).

In the present form every Kansas retailer (and some out of state retailers) must supply monthly, the KDT with a list of every delivery made to an exempt user. Many months of the year there will be tons of paper hitting the State House.

The retailer must supply this information to KDT which in turn requires a great deal of additional time and expense. Yes, there is a provision permitting retailer's a 2.5% reduction in the reported taxable gallons. Unless retailer's convince all exempt user's to pay the tax up front and request refunds, the 2.5%

reduction will be totally meaningless.

We have been holding information meetings for retailers around the state with Excise Tax Personnel as presenters. Retailers are very disturbed about the additional paperwork and the requirement of them being the enforcers.

The real problem will come when the full impact of the record keeping requirements hit the Ag-producer and other exempt users. Most are not fully aware of the present record keeping requirements necessary to properly enforce abuse.

Enforcement is now a problem. The state does not have enough auditors to examine both the retailer and exempt user - which is a must for proper enforcement. As each of you know, the most practical enforcement method would be to have the exempt user pay the tax up front and apply for a refund. The only enforcement then required would be examination of the refund claims.

We would like to see S.B. 401 amended to change the effective date of S.B. 551 to July 1, 1994 and give us time to produce a satisfactory solution to the record keeping burden and still substantially reduce the abuse.

The need for further study would be most helpful, but, should this committee feel that extending the effective date would not be

practical, passage of S.B. 401 is still very important to retailers.

With me is Mike Meisenheimer, a Certified Public Accountant who recently joined KFSA as my successor. Mike was previously with a large petroleum retailer and at this time we would entertain any questions you may have.

Our 175,000 ag-producers, Mike and myself thank each of you for your concern and your attention.

Testimony on Senate Bill 401
House Transportation Committee
March 18, 1993
Prepared by Joe Lieber
Kansas Cooperative Council

Mr. Chairman and members of the Committee: I'm Joe Lieber, Executive Vice President of the Kansas Cooperative Council. The Council has a membership of over 200 cooperative businesses. Of these members, nearly 150 of them are local farm supply cooperatives. These cooperatives are owned by the members, and most sell fuel to their members.

Mr. Chairman and members of the Committee, I am not a bookkeeper so I don't understand the ramifications of Senate Bill 401, but I do know that it will save some of our members some costly paper work. So that is why the Council supports SB 401.

Even though SB 401 helps with the record keeping, our members do not feel it goes far enough. SB 551 was passed last year to prevent fuel tax fraud. At the time it seemed like a reasonable bill and we did not oppose it. But now that the reporting procedures have been established, we feel that it has put a burden on our members. As I stated before, I don't understand the bookkeeping procedures, but I have brought someone who does.

Bob Lee is the Director of Services for the Kansas Farmers Service Association and is currently the president of the National Society of Accountants for Cooperatives. Bob works with and advises cooperatives on tax matters.

After Bob's testimony you will have a better understanding of why we support SB 401, and why we would like something done about SB 551.

Thank you.