

## MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by Chairperson Ben Vidrickson at 9:00 a.m. on March 22, 1993 in Room 254-E of the Capitol.

All members were present except:

Committee staff present: Hank Avila, Legislative Research Department  
Ben Barrett, Legislative Research Department  
Bruce Kinzie, Revisor of Statutes  
Martha Ozias, Committee Secretary

Conferees appearing before the committee:

Jim Coder, Asst. Attorney General, State Fire Marshal Department  
Tuck Duncan, Medevac Medical Services, Inc.  
Tom Whitaker, Governmental Relations Director, KMCA  
Lt. Sam Grant, Kansas Highway Patrol  
Pam Somerville, Kansas Motor Car Dealers Association

Others attending: See attached list

Jim Coder appeared before the committee in support of **HB 2415** relating to the designation of emergency vehicles. He cited two reasons for supporting the amendment. One was the question of whether these fire departments that run ambulances had to obtain a permit from each county they passed through. The other reason was on behalf of the arson investigation division of the fire marshal's office. He explained that they were in the process of outfitting the arson investigators cars with Kojack lights and sirens and were unsure as from which counties they should obtain a permit. (See Attachment A)

Tuck Duncan felt the amendment should be kept in the bill and suggested that once the ambulance license is issued the vehicle should be granted emergency vehicle status. (See Attachment B) Lt. Grant also opposed the bill.

Tom Whitaker spoke in support of the bill as amended by the House Transportation Committee which clarifies that a wrecker or tow truck, which is designated an emergency vehicle in the county where located, can operate in all counties in the state on that home county designation. (See Attachment C)

Testimony was distributed but not read from Gerry Ray, Intergovernmental Coordinator Johnson County Board of Commissioners. (See Attachment D)

Attention was turned to **HB 2194** which would require dealers to disclose certain facts. It was discussed briefly with Pat Somerville stating their support for the bill.

The chairman asked the committee to return to **HB 2415**. Senator Jones made a motion to pass this bill favorably. A second was made by Senator Papay. A question was raised and a balloon version of the bill was distributed by the staff. (See Attachment E) Senator Jones withdrew the motion.

After brief discussion, a motion was made by Senator Emert to pass this bill as amended which would change line 35 to read after the word "owned", as "and ambulances, licensed by the emergency medical services board under the provisions of K.S.A. 65-6101 et seq., and amendments thereto." This was seconded by Senator Harris and the motion carried.

Senator Jones then made a motion to pass **HB 2415** favorably as amended. A second was made by Senator Papay. Motion carried with Senator Burke as a "pass".

The chairman called for action on **HB 2174** relating to prohibitions and penalties on wide-base single tires. A motion was made to pass this bill with a seconded from Senator Papay. Motion carried.

A motion was then made by Senator Harris to approve the minutes of the March 19th meeting. A second was made by Senator Tiahrt. Motion Carried.

The meeting was then adjourned by the chairman.

# GUEST LIST

## SENATE TRANSPORTATION COMMITTEE

DATE: March 22, 1993

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
DON CARLILE	TOPEKA	KCC
JACK TIERCE	TOPEKA	KCC
Jim Coder	TOPEKA	Ks State Fire Marshal
STACY MORFORD	TOPEKA	AP
Jack DWAN	TOPEKA	medewac
Glen Copwell	TOPEKA	Ks-NE Assn 7 <sup>th</sup> day of Oct.
Samuel Grant	TOPEKA	KHP
Gerry N Turner DVM	Great Bend	KVMA
Tom Whitaker	TOPEKA	Ks Motor Carriers Assn
Betty M. Bride	TOPEKA	KDOR
Jeanne Oakes	"	KIADA
Rick Scheibe	TOPEKA	KDOR
Ron Somers	TOPEKA	KMCDA
Nancy Boerna	TOPEKA	KDOT
Bill Watts	TOPEKA	KDOT
<del>Don Anzures</del>	TOPEKA	Kansas Motor Car Dealers
ED SCHAUB	"	WESTERN RESOURCES
Anne Smith	TOPEKA	Ks. Assn. of Counties



"Where Fire Safety Is A Way Of Life"

Kansas State Fire Marshal Department  
700 Jackson, Suite 600  
Topeka, Kansas 66603-3714  
Phone (913) 296-3401  
FAX (913) 296-0151

Joan Finney  
Governor

Edward C. Redmon  
Fire Marshal

TESTIMONY OF JIM CODER  
ASSISTANT ATTORNEY GENERAL  
STATE FIRE MARSHAL DEPARTMENT  
HOUSE BILL 2415  
SENATE TRANSPORTATION COMMITTEE  
MARCH 16, 1993

I am appearing in support of House Bill 2415 for two separate and distinct reasons.

First, I want to speak in support of this legislation on behalf of numerous fire chiefs and fire departments who have complained about the current law. Given the questions about the changes last year, two attorney general opinions were issued (92-142, 92-143). These opinions concluded that although it was probably an unintentional result of drafting the clear language of the statute required publicly owned emergency vehicles to be designated as emergency vehicles. Many fire chiefs and departments found this to be absurd and a nuisance. There was also a question of whether these fire departments that run ambulances had to obtain a permit from each county they passed through when transporting patients from their county to a larger hospital in another county. This amendment would solve their problems simply by allowing publicly-owned emergency vehicles to operate as emergency vehicles without having to get a permit. The second reason I'm appealing in support of this bill is on behalf of the arson investigation division of the fire marshal's office. We are in the process of outfitting our arson investigators cars with Kojak lights and sirens. We don't know which of the 14 or 15 counties in each investigators territory we should obtain a permit from. Again the situation seemed absurd. We are a statewide law enforcement agency having to go to a county commission to obtain approval to use equipment which is utilized in the carrying out of our statutory law enforcement duties.

Once again on behalf of the State Fire Marshal, I would urge you to support House Bill 2415.



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN  
ATTORNEY GENERAL

November 10, 1992

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
TELECOPIER: 296-6296

ATTORNEY GENERAL OPINION NO. 92- 142

Mr. Rod Ludwig  
Mitchell County Attorney  
112 E. Court  
Beloit, Kansas 67420

Re:           Automobiles and Other Vehicles--Uniform Act  
              Regulating Traffic; Powers of State and Local  
              Authorities--Designation of Authorized Emergency  
              Vehicles; Authorization by One or Multiple Counties

Synopsis:   K.S.A. 8-2010, as amended by L. 1992, ch. 141  
              requires designation of each emergency vehicle by  
              only the county with primary jurisdiction over the  
              vehicle. Cited herein: K.S.A. 8-2010, as amended  
              by L. 1992, ch. 141, § 4; L. 1992, ch. 141, § 2.

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Dear Mr. Ludwig:

You request our opinion regarding 1992 House Bill No. 3157 (L. 1992, ch. 141) as it amends K.S.A. 8-2010. Specifically, you inquire whether the designation of emergency vehicles required by this bill must be made by all counties in which the vehicle is operated or only that county in which the vehicle is located.

New section 2 of house bill 3157 provides that no motor vehicle with a red light, siren or both may be operated in this state unless it has been properly designated as an authorized emergency vehicle pursuant to K.S.A. 8-2010, as amended. K.S.A. 8-2010 is amended by the bill to read as follows:

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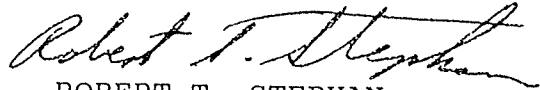
"(a) Any particular vehicle shall be designated, by the board of county commissioners in which such vehicle is located, as an authorized emergency vehicle upon the filing of an application pursuant to section 1 and a finding that designation of such vehicle is necessary to the preservation of life or property or to the execution of emergency governmental functions. The designation shall be in writing and the written designation shall be carried in the vehicle at all times, but failure to carry the written designation shall not affect the status of the vehicle as an authorized emergency vehicle.

"(b) Any vehicle designated as an authorized emergency vehicle prior to the effective date of this act, may continue to operate as an authorized emergency vehicle, as long as: (1) The ownership of such vehicle remains unchanged; and (2) the use of such vehicle for purposes of which such vehicle was designated remains unchanged, except that all future operation of such vehicle as an authorized emergency vehicle shall be in accordance with this section and such other applicable provisions of law." (Emphasis added.)

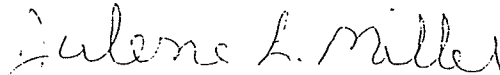
The committee minutes of the hearings on house bill 3157 reveal that the purpose of the bill was to "transfer the authority of issuing emergency vehicle designations [from the secretary of transportation] to the county commissioners so the activity can be properly monitored and enforced under one local jurisdiction." Minutes, Senate Committee on Transportation and Utilities, March 25, 1992, (emphasis added). See also, Minutes, House Committee on Transportation, March 2, 1992, attachment 1. The above-emphasized language of K.S.A. 8-2010, as amended, remained unchanged from the time the bill was introduced until the time it was passed. See 1992 Senate and House Actions Report, p. 156 (Final Report, Friday, May 29, 1992). It does not appear that the legislature intended to further complicate designation of emergency vehicles by requiring multiple authorizations. We therefore believe the legislature intended to require only one

county to designate each emergency vehicle, that county being the one with the greatest control over the vehicle because of the use to which it is put or because it is garaged or kept in that county when not in use.

Very truly yours,



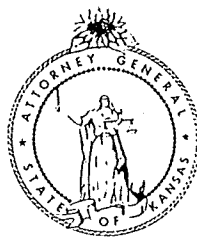
ROBERT T. STEPHAN  
Attorney General of Kansas



Julene L. Miller  
Deputy Attorney General

RTS:JLM:jm

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STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER. TOPEKA 66612-1597

ROBERT T. STEPHAN  
ATTORNEY GENERAL

November 10, 1992

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
TELECOPIER: 296-6296

ATTORNEY GENERAL OPINION NO. 92- 143

Stephen B. Plummer  
Sedgwick County Counselor  
Sedgwick County Courthouse  
525 North Main Street, Suite 359  
Wichita, Kansas 67203-3790

Re:           Automobiles and Other Vehicles--Uniform Act  
              Regulating Traffic; Powers of State and Local  
              Authorities--Designation of Authorized Emergency  
              Vehicles; Authority to Designate Certain  
              Privately-Owned Vehicles; Need to Designate  
              Publicly-Owned Vehicles

Synopsis:    The appropriate board of county commissioners may  
              designate any public or privately-owned vehicle as  
              an emergency vehicle upon receipt of an application  
              and finding that such designation "is necessary to  
              the preservation of life or property or to the  
              execution of emergency governmental functions."  
              Publicly-owned vehicles not grandfathered in  
              pursuant to L. 1992, ch. 141, § 4(b) must be  
              designated as emergency vehicles before they may be  
              operated with red lights and/or siren. Cited  
              herein: K.S.A. 8-2010, as amended by L. 1992, ch.  
              141, § 4; K.S.A. 8-2010 (Furse 1991) L. 1992, ch.  
              141, §§ 1, 2; K.A.R. 32-2-3; 32-2-4.

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Dear Mr. Plummer:

You request our opinion regarding 1992 House Bill No. 3157 (L. 1992, ch. 141) which altered the method for designating emergency vehicles.

The purpose of this bill was to shift the responsibility for designating privately-owned vehicles as emergency vehicles from the secretary of transportation to local county commissions. Minutes, House Committee on Transportation, March 2, 1992; Minutes, Senate Committee on Utilities and Transportation, March 25, 1992. In implementing this purpose, however, the language used in the amendments and new sections has raised several new concerns. Attorney General Opinion No. 92-142 addresses one such concern. Your request focuses on two others: "First, is the Board of County Commissioners authorized, pursuant to Section 141 of the 1992 Session Laws to designate vehicles owned by private corporations and used as funeral escorts as emergency vehicles? [; s]econd, are publicly owned fire department vehicles, police vehicles and ambulances required to obtain designations as emergency vehicles from the Board of County Commissioners?"

You state that prior to enactment of house bill 3157, there were no statutory restrictions on the types of vehicles the secretary of transportation had authority to designate as emergency vehicles, other than that the secretary had to find the designation was necessary to preserve life or property or to execute emergency governmental functions. See K.S.A. 8-2010 (Furse 1991). The secretary adopted a regulation to serve as a guideline (K.A.R. 36-2-3), but retained authority to make exceptions to the guidelines [K.A.R. 36-2-4(1), (n)]. The legislature lifted the language of K.A.R. 36-2-3 and, with amendments not pertinent to this discussion, placed it in new section 1 of house bill 3157. That section provides in part:

"(b) The following vehicles, upon approval by the board of county commissioners, may be designated as emergency vehicles:

"(1) Wreckers;

"(2) civil defense vehicles;

"(3) emergency vehicles operated by public utilities;

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"4) the privately owned vehicles of firemen or volunteer firemen;

"(5) privately operated ambulances; or

"(6) the privately owned vehicles of police officers." L. 1992, ch. 141, § 1.

The provisions of K.A.R. 36-2-4(1) and (m) were not included in house bill 3157, however, K.S.A. 8-2010, as amended by section 4 of the bill, provides in part:

"(d) Any particular vehicle shall be designated, by the board of county commissioners in which such vehicle is located, as an authorized emergency vehicle upon the filing of an application pursuant to section 1 and a finding that designation of such vehicle is necessary to the preservation of life or property or to the execution of emergency governmental functions." L. 1992, ch. 141, § 4 (emphasis added).

Section 1(b) says county commissioners may designate the vehicles listed therein as emergency vehicles; it does not say the commissioners may designate only those vehicles listed. We do not believe the legislature intended section 1(b) of the bill to limit the types of vehicles which may be designated as emergency vehicles. Construing section 1(b) as a limit would arguably prevent designation of publicly owned police vehicles, fire department vehicles and ambulances as emergency vehicles. This clearly would be contrary to legislative intent and would be far from the stated purpose of house bill 3157. It is therefore our opinion that the board of county commissioners may designate any publicly or privately-owned vehicle as an emergency vehicle upon finding that such designation "is necessary to the preservation of life or property or to the execution of emergency governmental functions" once an application is properly filed.

Section 2 of house bill 3157 provides as follows:

"A person, partnership, association, corporation municipality or public official shall not operate, or cause to be operated upon a public highway, road or street within this state, a motor vehicle

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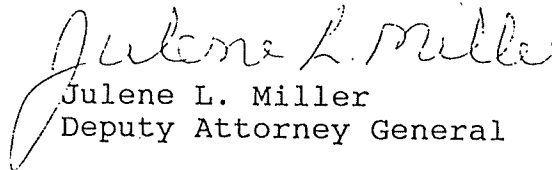
with a red light, siren or both unless the vehicle has been designated as an authorized emergency vehicle pursuant to K.S.A. 8-2010, and amendments thereto." L. 1992, ch. 141, § 2.

While sections 1 and 4 of house bill 3157 are susceptible to more than one construction, section 2 is not. We cannot use extrinsic evidence of legislative intent to overcome clear statutory provisions. See Farmers Co-op v. Kansas Bd. of Tax Appeals, 236 Kan. 632, 635 (1985); Brabander v. Western Co-op Elec., 248 Kan. 914, 917 (1991). Thus, in our opinion section 2 requires designation of publicly-owned police vehicles, fire department vehicles and ambulances as well as privately owned vehicles used for emergency purposes. Vehicles in operation as emergency vehicles prior to July 1, 1992 were grandfathered in pursuant to L. 1992, ch. 141, § 4(b).

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Julene L. Miller  
Deputy Attorney General

RTS:JLM:jm

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**Medevac Medical Services, Inc.  
401 Jackson Street  
Topeka, Kansas 66603**

March 16, 1993

To: Senate Transportation Committee  
From: R.E. "Tuck" Duncan  
General Counsel  
Medevac Medical Services, Inc.  
RE: House Bill 2415

Pursuant to K.S.A. 65-6110 the Emergency Medical Services Board (EMS Board) is empowered to establish "requirements as to equipment necessary for ambulances" and to establish "requirements for the licensure and renewal of licensure for ambulances..." In accordance with that authority the EMS Board has adopted various regulations and licenses all ambulances ["any privately or publicly owned motor vehicle, ... designed, constructed, prepared and equipped for use in transporting and providing emergency care for individuals who are ill or injured." K.S.A. 65-6112(b)]. There are approximately 550 such licensed vehicles in Kansas. We respectfully request that the committee adopt the following amendment on page one at lines 34-35:

(c) Fire department vehicles, police vehicles and ambulances which are ~~publicly owned~~ certified by the emergency medical services board, shall not be required to be designated by the board of county commissioners as authorized emergency vehicles.

Inasmuch as all ambulances are licensed by the EMS Board there is no basis upon which to distinguish between publicly and privately owned ambulances for purposes of designation as an "emergency vehicle." We suggest that once the ambulance license is issued the vehicle should, to avoid duplication and further application to a board of commissioners, be granted emergency vehicle status. Thank you for your consideration of this matter.



STATEMENT

By The

KANSAS MOTOR CARRIERS ASSOCIATION

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Concerning House Bill No. 2415 relating  
to designation of emergency vehicles.

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Presented to the Senate Transportation &  
Utilities Committee, Sen. Ben Vidricksen,  
Chairman; Statehouse, Topeka, Tuesday,  
March 16, 1993.

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MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am Tom Whitaker, Governmental Relations Director of the  
Kansas Motor Carriers Association with offices in Topeka. I  
am here today along with Mary Turkington, the Association's  
Executive Director, representing our member-firms and the Towing  
and Recovery Division of our Association.

We are here today to support House Bill No. 2415 as amended  
by the House Transportation Committee. H.B. 2415 clarifies that  
a wrecker or tow truck, which is designated an emergency vehicle  
in the county where located, can operate in all counties in the  
state on that home county designation.

We respectfully ask you to recommend House Bill 2415 favorably  
as amended by the House Committee. We will be pleased to respond  
to any questions.

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ATTACHMENT C

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March 17, 1993

SENATE TRANSPORTATION AND UTILITIES COMMITTEE

HEARING ON HOUSE BILL 2415

TESTIMONY OF GERRY RAY, INTERGOVERNMENTAL COORDINATOR  
JOHNSON COUNTY BOARD OF COMMISSIONERS

The Johnson County Board of Commissioners would like to express support for House Bill 2415. The bill removes a requirement that emergency vehicles owned by cities must be designated by the board of county commissioners as authorized emergency vehicles.

The Commission feels this law is outdated and unnecessary. Such designation should be handled by the city officials in the jurisdiction owning the vehicles. It creates added administrative responsibilities for the county and needless delays for cities. This requirement is especially cumbersome in a county such as Johnson that has twenty-one cities.

The Johnson County Commission urges the Committee to recommend House Bill 2415 favorable for passage to relieve local government of adhering to an obsolete provision.

HOUSE BILL No. 2415

By Committee on Transportation

2-9

9 AN ACT concerning emergency vehicles; relating to the designation  
10 thereof; amending K.S.A. 1992 Supp. 8-2010 and 8-2010b and  
11 repealing the existing section sections.  
12

8-1404,

8-2010a

13 *Be it enacted by the Legislature of the State of Kansas.*

14 Section 1. K.S.A. 1992 Supp. 8-2010 is hereby amended to read  
15 as follows: 8-2010. (a) Any particular vehicle listed in subsection (b)  
16 of K.S.A. 1992 Supp. 8-2010a, and amendments thereto, shall be  
17 designated, by the board of county commissioners in which such  
18 vehicle is located, as an authorized emergency vehicle upon the  
19 filing of an application pursuant to K.S.A. 1992 Supp. 8-2010a, and  
20 amendments thereto and a finding that designation of such vehicle  
21 is necessary to the preservation of life or property or to the execution  
22 of emergency governmental functions. The designation shall be in  
23 writing and the written designation shall be carried in the vehicle  
24 at all times, but failure to carry the written designation shall not  
25 affect the status of the vehicle as an authorized emergency vehicle.

Section 1. See Attachment

Sec. 2

26 (b) Any vehicle designated as an authorized emergency vehicle  
27 prior to the effective date of this act, may continue to operate as  
28 an authorized emergency vehicle, as long as: (1) The ownership of  
29 such vehicle remains unchanged; and (2) the use of such vehicle for  
30 purposes for which such vehicle was designated remains unchanged,  
31 except that all future operation of such vehicle as an authorized  
32 emergency vehicle shall be in accordance with this section and such  
33 other applicable provisions of law.

or

34 (c) Fire department vehicles, police vehicles ~~and ambulances~~  
35 which are publicly owned, ~~need~~ shall not be required to be des-  
36 ignated by the board of county commissioners as authorized emer-  
37 gency vehicles.

and ambulances, licensed by the emergency  
medical services board under the provisions  
of K.S.A. 65-6101 et seq., and amendments  
thereto,

38 (d) Any vehicle designated under the provisions of this section,  
39 as an authorized emergency vehicle in the county in which such  
40 vehicle is located, shall be a valid designation of such vehicle in  
41 any other county and such vehicle shall be authorized to operate  
42 as an authorized emergency vehicle without being required to obtain  
43 any additional designation in any other county.

Sec. 3 See Attachment

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ATTACHMENT E  
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1 Sec. ~~2~~<sup>4</sup> K.S.A. 1992 Supp. 8-2010b is hereby amended to read  
2 as follows: 8-2010b. A person, partnership, association, corporation  
3 municipality or public official shall not operate, or cause to be  
4 operated upon a public highway, road or street within this state,  
5 a motor vehicle *which is required to be designated under the pro-*  
6 *visions of K.S.A. 8-2010, and amendments thereto*, with a red light,  
7 siren or both unless ~~the~~ such vehicle has been designated as an  
8 authorized emergency vehicle pursuant to K.S.A. 8-2010, and  
9 amendments thereto.

10 Sec. ~~2~~<sup>3</sup> K.S.A. 1992 Supp. ~~8-2010 is~~ and 8-2010b are hereby  
11 repealed.

12 Sec. ~~3~~<sup>4</sup> This act shall take effect and be in force from and after  
13 its publication in the statute book.

4

8-1404,

, 8-2010a

5

6

Sec. 3. K.S.A. 1992 Supp. 8-2010a is hereby amended to read as follows: 8-2010a. (a) An application for the designation of a vehicle as an authorized emergency vehicle pursuant to K.S.A. 8-2010, and amendments thereto, shall be submitted to the board of county commissioners in the county in which such vehicle is located and shall be completed and signed: (1) By the individual applicant;

(2) if a partnership, by a member of the partnership or an authorized agent; or

(3) if a corporation or municipality, by an officer or authorized agent of the corporation or municipality.

(b) The following vehicles, upon approval by the board of county commissioners, may be designated as emergency vehicles:

(1) Wreckers;

(2) civil defense vehicles;

(3) emergency vehicles operated by public utilities;

(4) the privately owned vehicles of firemen or volunteer firemen;

~~(5) --privately-operated-ambulances;--or~~

~~(6)~~ (5) the privately owned vehicles of police officers.

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Section 1. K.S.A. 1992 Supp. 8-1404 is hereby amended to read as follows: 8-1404. "Authorized emergency vehicle" means such fire department vehicles, or police vehicles and--ambulances as which are publicly owned; ambulances, licensed by the emergency medical services board under the provisions of K.S.A. 65-6101 et seq., and amendments thereto; and such other publicly or privately owned vehicles which are designated as emergency vehicles pursuant to K.S.A. 8-2010, and amendments thereto.