

MINUTES OF THE HOUSE COMMITTEE ON TRANSPORTATION.

The meeting was called to order by Chairman Rex Crowell at 1:30 p.m. on January 26, 1994 in Room 519-S of the Capitol.

All members were present except: All present

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. Plummer  
Gerry Ray, City of Overland Park  
Jim Tobaben, State Traffic Engineer, KDOT  
Alice Blecha, Stagg Hill Neighborhood Assn.  
Don Moler, KS League of Municipalities  
Betty McBride, Director of Vehicles, KDOR

Others attending: See attached list

Chairman Crowell opened the hearing on HB 2647 regarding speed limits in cities.

Rep. Plummer, author of the bill, was recognized by the Chairman. He testified that his city may have to change speed limit signs in light of an Attorney General decision. Attachment 1.

The Chairman recognized Gerry Ray as a proponent of the bill. Testimony centered around the cost involved to replace signs, which would be necessary as a result of the opinion of the Attorney General.

Chairman Crowell recognized Jim Tobaben for comments regarding the bill. See Attachment 2.

Alice Blecha was recognized as a proponent of the bill by Chairman Crowell. She testified that her neighborhood asked for this bill because of dangerous intersections that claimed the lives of two children within the past two years. See Attachment 3.

Don Moler was recognized by the Chairman as an opponent of the bill. He testified that the League of Municipalities was concerned that the bill undermines home rule authority. See Attachment 4.

The Chairman closed the hearing on HB 2647.

Chairman Crowell opened the hearing on HB 2646 concerning the confidentiality of photographs maintained by the Division of Vehicles in connection with issuance of drivers' licenses.

Betty McBride was recognized by the Chairman as a proponent of the bill. Ms. McBride testified that with the new digitized license system, the Division of Vehicles will be retaining a digitized photograph of the licensee also. Attachment 5.

No other conferees were present and the Chairman closed the hearing on HB 2646.

Chairman Crowell opened the hearing on HB 2645 concerning issuing distinguishable drivers' licenses to persons under the age of 21.

The Chairman recognized Betty McBride as a proponent of the bill. She testified that the Division of Vehicles supports the bill as it would provide for better identification of drivers' license holders under 21 years of age. See Attachment 6.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TRANSPORTATION, Room 519-S Statehouse, at 1:30 p.m. on January 26, 1994.

Chairman Crowell closed the hearing on HB 2645.

The Chairman called the Committee's attention to written testimony submitted by Frances Kastner, Kansas Food Dealers Association. See Attachment 7.

Chairman Crowell adjourned the meeting at 2:40 p.m. The next meeting is scheduled for January 27, 1994, at 1:30 p.m. in Room 519-S of the Capitol.

HOUSE TRANSPORTATION COMMITTEE

Name	Address	Representing
John W Smith	TOPEKA	KDOR
Ken Clark	Topeka	KDOR
Betty McBride	Topeka	KDOR
Alice Blecha	Manhattan	Stagg Hill Neighborhood Assoc.
Stella Hochman	Manhattan	Legislature
Gerry Ray	Overland Park	City of Overland Park
JIM KEELE	PAOLA	B.L.E.
Tom Whicker	TOPEKA	KS MOTOR CARRIERS ASSN.
Bill Watts	Topeka	KDOT
Pam Somerville	TOPEKA	K.A.D.A
Michelle Peterson	Topeka	Ks. Gov. Consulting
Nancy Bagina	Topeka	KDOT

BLAISE PLUMMER  
REPRESENTATIVE, TWENTIETH DISTRICT  
JOHNSON COUNTY  
10100 EL MONTE  
OVERLAND PARK, KANSAS 66207



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS:  
FEDERAL AND STATE AFFAIRS  
JUDICIARY  
JOINT COMMITTEE ON PENSIONS  
INVESTMENTS & BENEFITS

HB 2647

January 26, 1994

BEFORE THE HOUSE TRANSPORTATION COMMITTEE

H 2647

Testimony of Representative Blaise Plummer in Support of H 2647

Mr. Chairman and Committee Members:

Thank you for the opportunity to speak to you in support of H 2647.

On October 6, 1993, the Attorney General issued an opinion relating in part to speed limits in residential areas.

After reviewing the legislative history and statutes of the uniform traffic act, the Attorney General found that any city ordinance which prescribes a speed limit of less than 30 miles per hour in a residential district conflicts with state law and is void.

HOUSE TRANSPORTATION  
January 26, 1994  
Attachment 1-1

There is no policy reason why cities should not have local control over speed limits in residence districts. If this opinion is allowed to stand cities may be required to go to the trouble and expense of changing speed limits. Further, it may be impossible to enforce speed limits in residence districts which are lower than 30 miles per hour.

H 2647 will allow cities flexibility to vary speed limits in residence districts from 20 m.p.h. to 30 m.p.h. I urge you to support this amendment. Thank you.

Attachment



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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

ROBERT T. STEPHAN  
ATTORNEY GENERAL

October 6, 1993

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

ATTORNEY GENERAL OPINION NO. 93- 131

William Frost  
Manhattan City Attorney  
1101 Poyntz  
Manhattan, Kansas 66502-5460

Re:           Automobiles and Other Vehicles--Uniform Act  
              Regulating Traffic; Powers of State and Local  
              Authorities--Power of Municipalities to Regulate  
              Speed in Residential Districts and Establish  
              Traffic Control Devices

Synopsis:     Cities do not have the authority to promulgate  
              ordinances which alter the state prescribed speed  
              limit of 30 miles per hour in a residential  
              district. Cities do have the authority to place  
              and maintain traffic control devices as long as  
              they conform to the uniform traffic control  
              manual. However, the manual itself establishes  
              only a minimum standard of safety and is merely a  
              guideline for professional engineers and is not a  
              substitute for their judgment. Cited herein:  
              K.S.A. 8-124, repealed, L. 1937, ch. 283, § 135;  
              8-532, repealed, L. 1974, ch. 33, § 8-2205; 8-533,  
              repealed, L. 1974, ch. 33, § 8-2205; 8-1336;  
              8-1338; 8-2001; 8-2002; 8-2003; 8-2005; 8-2204, as  
              amended by L. 1993, ch. 259, § 9; K.S.A. 1992 Supp.  
              75-6104.

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HOUSE TRANSPORTATION  
January 26, 1994  
Attachment 1-3

Dear Mr. Frost:

You request our opinion concerning the city's ability to establish maximum speed limits of less than 30 miles per hour in a residential district and whether the city may establish traffic control devices where the guidelines set forth in the uniform traffic control manual do not warrant such a placement. The speed limit issue is of considerable importance because according to the league of Kansas municipalities there are at least 100 cities which have ordinances establishing speed limits of less than 30 miles per hour in residential districts. Consequently, a review of the statutes in this area is necessary.

K.S.A. 8-1336(a)(2) provides, in relevant part, as follows:

"Except when a special hazard exists that requires lower speed for compliance with K.S.A. 8-1335, . . . the limits specified in this section or established as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle at a speed in excess of such maximum limits;

"(2) In any residence district, 30 miles per hour. . . ."

K.S.A. 8-2002(a)(10) and (d) allow local authorities to alter or establish speed limits as authorized in K.S.A. 8-1338.

K.S.A. 8-1338(a) provides, in relevant part, as follows:

"Whenever local authorities in their respective jurisdictions determine on the basis of engineering and traffic investigation that any maximum speed permitted under this act is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the local authority may determine and declare a reasonable and safe maximum limit thereon which:

"(1) decreases the limit at intersections. . . ."

K.S.A. 8-2001 provides, as follows:

"The provisions of this act shall be applicable and uniform throughout this state and in all cities and other political subdivisions therein, and no local authorities shall enact or enforce any ordinance in conflict with the provisions of this act unless expressly authorized; however, local authorities may adopt additional traffic regulations which are not in conflict with the provisions of this act." (Emphasis added).

Both K.S.A. 8-1336 and 8-1338 are part of the uniform act regulating traffic. K.S.A. 8-2204, as amended by L. 1993, ch. 259, § 2.

The legislative history of speed limits in residential districts begins in 1935 when K.S.A. 8-124 allowed cities to regulate the speeds of automobiles within the corporate limits. However, in 1937, chapter 283 was enacted which repealed K.S.A. 8-124. Chapter 283 was modeled upon the uniform vehicle code - its object being to provide a uniform regulation of vehicular traffic throughout the state. Ash v. Gibson, 146 Kan. 756, 762 (1937).

"By the enactment of chapter 283 the legislature evinced an intention to cover the field of traffic regulation throughout the state. The broad and general powers delegated by statutes to municipalities to exercise control over streets are subject to the limitation that the ordinances must not be inconsistent with the laws of the state or in contravention of the declared policy of the state as found in its statutes." Ash at p. 764.

Section 32 of chapter 283 (K.S.A. 8-532, repealed by L. 1974, ch. 33, § 8-2205) established a limit of 20 miles per hour in a business district and 25 miles per hour in a residential district. The speed limit in residential districts was increased to 30 miles per hour in 1938. (L. 1938, ch. 58, § 2.) Section 33 of chapter 283 (K.S.A. 8-533 repealed by L. 1974, ch. 33, § 8-2205) gave local authorities the power to lower the speed limit at intersections if an engineering and traffic investigation so warranted. In Harshaw v. Kansas City Public Service Company, 154 Kan. 481 (1941) the supreme court concluded that a city ordinance regulating speed at 35 miles



per hour on boulevards was abrogated by chapter 283 - citing section 7 of chapter 283 which is the uniform provision found at K.S.A. 8-2001.

K.S.A. 8-532 and 8-533 remained unchanged until 1957 when K.S.A. 8-533 was amended to give cities the authority to alter speed limits in business and residential districts if warranted by an engineering and traffic study. (L. 1957, ch. 62, § 2). However, in 1974 the legislature revamped the uniform code in order to bring Kansas in fuller conformity with the uniform vehicle code. Report on Kansas Legislative Interim Studies to the 1973 Legislature, December 1972, p. 552; Reports of Special Committees to the 1974 Kansas Legislature, part II, p. 103-8 and 103-9. K.S.A. 8-532 and 8-533 were repealed and replaced with the current provisions which are found at K.S.A. 8-1336 and 8-1338. (L. 1974, ch. 29, § 3 and 5).

After reviewing this legislative history and the plain meaning of K.S.A. 8-2001, it is clear that the legislature has preempted the field of speed limits in residential areas and any city ordinance which prescribes a speed limit of less than 30 miles per hour in a residential district conflicts with state law and is void. Furthermore, the statutes are uniformly applicable to all cities and therefore the latter may not use home rule powers to charter out of K.S.A. 8-1336.

Addressing your query concerning whether local authorities have the power to place traffic control devices - in this case, four-way stop signs at intersections - we review the applicable statutes.

K.S.A. 8-2003 provides in relevant part as follows:

"The secretary of transportation shall adopt a manual and specifications for a uniform system of traffic-control and traffic-control devices consistent with the provisions of this act for use upon highways within this state."

K.S.A. 8-2005 provides in relevant part as follows:

"(a) Local authorities in their respective jurisdictions shall place and maintain such traffic-control devices upon highways under their jurisdiction as they may deem necessary to indicate and to

carry out the provisions of this act or local traffic ordinances or to regulate, warn or guide traffic. All such traffic-controlled devices hereinafter erected shall conform to the state manual and specifications." (Emphasis added).

K.S.A. 8-2002(a) provides, in relevant part as follows:

"The provisions of this act shall not be deemed to prevent local authorities with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power from:

"(1) Regulating or prohibiting stopping . . .

"(2) Regulating traffic by means of . . . official traffic-controlled devices."

The language in section (a) of K.S.A. 8-2005 has remained unchanged since it was enacted in 1937 as part of the uniform act regulating traffic. (L. 1937, ch. 283, § 12). Consequently, it is our opinion that the legislature intended to give local authorities the power to place and maintain traffic control devices as long as the placement of the devices conforms to the manual on uniform traffic control devices (manual). The Supreme Court has rejected the notion that the manual only comes into play after local authorities make the decision to place a traffic control device. Force v. City of Lawrence, 17 Kan.App.2d 90, 94 (1992). The problem which the city of Manhattan faces is that the manual does not mandate the placement of four-way stop signs. Rather, the manual establishes three conditions which may warrant such a placement. [Manual on Traffic Control Devices, section 2B-6 (1988 ed.).] Consequently, the city engineers did not recommend such a placement. A neighborhood group is adamant that the city establish such signs because two children have been killed in recent months and some area residents believe that a four-way stop will solve the problem. The governing body is concerned that if a four-way stop is placed at the intersection contrary to the advice of the city engineers that it will open the city to liability in the event of an accident because the plaintiff may argue that the signs were not required by the manual. The question then becomes what liability may exist where the manual makes the placement of

traffic signals discretionary. We will analyze this issue in the context of the four-way stop situation. The following excerpts are from the manual:

Section 1A-1. Purposes of traffic control devices.

"The purpose of traffic control devices and warrants for their use is to help insure highway safety by providing for the orderly and predictable movement of all traffic . . . and to provide such guidance and warnings as are needed to insure the safe and uniform operation of individual elements of the traffic stream."

Section 1A-4. Engineering study required.

"The decision to use a particular device at a particular location should be made on the basis of an engineering study of a location. Thus, while this Manual provides standards for design and application for traffic control devices, the Manual is not a substitute for engineering judgment. It is the intent of the provisions of this Manual to be standards for traffic control devices installation, but not a legal requirement for installation." (Emphasis added).

Section 1A-5. Meanings of "shall", "should" and "may".

"In the Manual sections dealing with the design and application of traffic control devices, the words 'shall', 'should' and 'may' are used to describe specific conditions concerning these devices to clarify the meanings in this Manual by the use of these words, the following definitions apply:

"1. SHALL - a mandatory condition. Where certain requirements in the design or application of the device are described with the "shall" stipulation, it is mandatory when an installation is made that these requirements be met.

"2. SHOULD - an advisory condition. Where the word "should" is used, it is considered to be advisable usage, recommended but not mandatory.

"3. MAY - a permissive condition. No requirement for design or application is intended."

Section 2A-1. Functions of signs.

"Signs should be used only where warranted by facts and field studies. Signs are essential where special regulations apply at specific places or specific times only, or where hazards are not self-evident. . . ."

Section 2B-5. Warrants for stop signs.

"Because STOP signs cause a substantial inconvenience to motorists, it should be used only where warranted."

Section 2B-6. Multi-way stop signs.

"The "Multi-way Stop" installation is useful as a safety measure at some locations. It should ordinarily be used only where the volume of traffic on the intersecting roads is approximately equal. A traffic control signal is more satisfactory for an intersection with a heavy volume of traffic."

"Any of the following conditions may warrant a multi-way STOP sign installation:

"1. Where traffic signals are warranted and urgently needed, the multi-way stop is an interim measure that can be installed quickly to control traffic while arrangements are being made for the signal installation.

"2. An accident problem, as indicated by five or more reported accidents of a type susceptible of correction by a multi-way stop installation in a twelve-month period. . . .

"3. Minimum traffic volumes:

"(a) the total vehicular volume entering the intersection from all approaches must average at least 500 vehicles per hour for any 8 hours of an average day, and

"(b) the combined vehicular and pedestrian volume from the minor street or highway must average at least 200 units per hour for the same 8 hours, with an average delay to minor street vehicular traffic of at least 30 seconds per vehicle during the maximum hour, but

"(c) when the 85-percentile approach speed of the major street traffic exceeds 40 miles per hour, the minimum vehicular volume warrant is 70% of the above requirements."

The Kansas tort claims act (KTCA) creates an exemption from liability for any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty whether or not the discretion is abused. K.S.A. 1992 Supp. 75-6104(e). K.S.A. 1992 Supp. 75-6104(h) exempts governmental entities in placing any traffic signal when the placement is a result of a discretionary act.

In Schaeffer v. Kansas Department of Transportation (KDOT), 227 Kan. 509 (1980), (a pre-KTCA case) plaintiff argued that the department of transportation (KDOT) should have placed a curve sign on a highway. KDOT's position was that the specific conditions in the manual for placement of a curve sign were not fulfilled, and, therefore, it had no liability. The court pointed to several sections in the manual which indicated that warning signs were necessary to warn of hazardous conditions and affirmed the trial court's ruling that a highway defect existed under the (now repealed) highway defect act. (K.S.A. 68-419).

"KDOT argues repeatedly that if the physical configuration of the highway is such that the warrants for warning signs do not mandate a warning sign then there could be no liability for failure to install one even though a hazardous or perilous condition may in fact exist. We do not construe the statutes and the manual so narrowly. It appears obvious that both vest in KDOT the discretion and obligation to maintain adequate warning signs if, in fact, a hazard does exist. In our opinion the manual merely establishes minimum, not maximum, standards for safety. To hold otherwise would place form over substance and would negate the actual objectives of the statutes and manual of effecting uniform traffic control with a maximum amount of protection for the motoring public." Schaeffer at p. 515.

Carpenter v. Johnson, 231 Kan. 783 (1982) is another failure to sign case, decided after the KTCA was enacted where the court construed the two KTCA exemptions previously cited. Citing various portions of the manual the court concluded that whether or not the placement of the sign is discretionary or mandatory depends upon the totality of circumstances involved

and may not be determined as a matter of law. Toumberlin v. Haas, 236 Kan. 138, 142 (1984); Finkbiner v. Clay County, 238 Kan. 856 (1986). In Haas the court dismissed plaintiff's case when he failed to establish through engineering testimony that the placement of any type of sign was warranted or required by the manual.

It is our opinion that the manual establishes a minimum standard of safety and, by its own terms, serves merely as a guideline for professional engineers. It is not a substitute for their judgment. In the Manhattan situation, while the manual does not mandate the placement of a four-way stop, if, in the judgment of the city traffic engineers, a four-way stop is necessary to insure safety at that intersection, then the city may install such a device. If the engineers believe that a four-way stop is not necessary then the city is under no duty to place such signs. If a law suit occurs and one of the issues is the placement of the sign or the failure to sign, it will be up to the fact-finder to determine whether the decision to place or not place the sign was discretionary or mandatory based upon the totality of circumstances.

Summarizing our opinion, cities do not have the authority to promulgate ordinances which alter the state prescribed speed limit of 30 miles per hour in a residential district. Furthermore, cities do have the authority to place and maintain traffic control devices as long as they conform to the manual. However, the manual itself is merely a guideline for professional engineers and is not a substitute for their judgment.

Very truly yours,

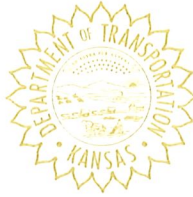


ROBERT T. STEPHAN  
Attorney General of Kansas



Mary Feighny  
Assistant Attorney General

RTS:JLM:MF:jm



Michael L. Johnston  
*Secretary of Transportation*

KANSAS DEPARTMENT OF TRANSPORTATION

*Docking State Office Building  
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Joan Finney  
*Governor of Kansas*

**TESTIMONY BEFORE  
HOUSE TRANSPORTATION COMMITTEE**

**REGARDING  
HOUSE BILL NO. 2647**

**JANUARY 26, 1994**

Mr. Chairman and Committee Members:

Mr. Chairman and members of the committee, I am James Tobaben, State Traffic Engineer, with the Kansas Department of Transportation. I am here today on behalf of the Department to provide testimony regarding the proposed revision of K.S.A. 8-1338.

KDOT recommends passage of this bill, to give local authorities the power in establishing speed limits to "decrease the limit within any residence district, but not to less than 20 miles per hour" based upon an engineering and traffic investigation. I emphasize the need for a traffic engineering study in determining appropriate speed limits. Existing engineering guidelines, when followed, provide the safest operation along a given roadway as well as a limit that appears reasonable to the majority of drivers.

Thank you for this opportunity to provide testimony. I would be happy to answer any questions you may have regarding speed zoning.

Sincerely,

HOUSE TRANSPORTATION  
January 26, 1994  
Attachment 2

James E. Tobaben, P.E.  
State Traffic Engineer

Testimony to the Transportation Committee on HB 2647

January 25, 1994

Thank you, members of the Transportation Committee, for giving me the opportunity to speak before you regarding HB 2647. My name is Alice Blecha, and I am the President of the Stagg Hill Neighborhood Association. Our Association formed about a year ago in response to the very problem that the bill before you addresses. In fact, it might be said that our neighborhood opened the Pandora's Box that gave rise to this bill.

Our neighborhood lies in the southwest section of the City of Manhattan, and we are a mixed neighborhood of single family homes, duplexes and multi-apartment buildings. Because of our proximity to a major highway west, many of our residents work at Fort Riley. Others work in Manhattan, at K-State or in other community businesses. Our neighborhood consists entirely of residential streets, many with curves on the hill that gives us our name -- Stagg Hill. In the Stagg Hill neighborhood, there are no through streets to other areas of the community.

We are a young neighborhood, and on nice days you can see many of our children playing in our front and back yards, or riding their bicycles and skateboards on our streets. You see, we have no sidewalks, and we have no neighborhood park as yet. Our whole neighborhood is our children's playground.

Our tragedy is that we have had two traffic fatalities of neighborhood children in the past two years. After the second death, we approached our city commission to request that speed limits be lowered and stop signs be installed at critical intersections in the neighborhood. Many members of our neighborhood attended a meeting with city staff to present our request, and the outcome of that meeting was only a partial solution. City staff

HOUSE TRANSPORTATION  
January 26, 1994  
Attachment 3-1



agreed to install four-way stop signs at two of three critical intersections, but that was as far as they could go, they said, because of state statute. Our city staff said that state statute prohibited them from lowering speed limits in residential areas.

Our requests continued to the City Commission itself, and the city attorney wrote an opinion that the staff interpretation of the state statute was correct: no lowered speed limit. No four-way stop signs at the third intersection where one of the children had died.

You can imagine how frustrated we were to see two protected intersections, and a third one, which was essentially identical, unprotected. You can imagine how frustrated we were to find out that cities throughout Kansas annually pass ordinances lowering speed limits in residential areas. Our speed limits are still 30 mph, even though our Manhattan city engineer wrote in a memo on August 17, 1993, that the 30 mph speed limit signs should be removed in order to "eliminate the possible impression given to motorists that it is appropriate to drive that fast."

After months of neighborhood meetings, doing research, and talking with City Commissioners and staff, the city attorney asked the Attorney General for an opinion. As you know, the Attorney General agreed with the Manhattan city attorney and city staff: state statutes are inflexible regarding residential speed limits.

It was out of our frustration that we held up our own stop signs on Friday evenings, and nearly all drivers courteously complied with our homemade signs for the weeks we protected our own intersection. The media discovered us, and we had TV coverage from other cities.

But we do not want media coverage. We just want safe neighborhoods for our children. We know that many other communities pass ordinances to lower

speed limits under the home rule option. We in the Stagg Hill neighborhood want to have the tools other cities already assume they have to make our neighborhood safe for our children.

Our City Commission needs this clarification of state statute to do what other communities throughout Kansas have already done. We urge the Committee to pass this bill, to clarify state statute, and to give the Manhattan City Commission this tool to make our streets safe for our children and ourselves.

With your help we can put the lid back on Pandora's Box.

Thank you very much.



# THE LEAGUE OF KANSAS MUNICIPALITIES

## Municipal Legislative Testimony

AN INSTRUMENTALITY OF KANSAS CITIES 112 S.W. 7TH TOPEKA, KS 66603-3896 (913) 354-9565 FAX (913) 354-4186

**TO:** House Transportation Committee

**FROM:** Don Moler, General Counsel

**DATE:** January 26, 1994

**SUBJECT:** HB 2647, Speed Limits in Residential Areas

The League appears here today to comment on HB 2647, a bill which reduces by statute the minimum speed limits cities may enforce in residential areas. This has been an area in which much discussion has taken place with widely conflicting interpretations of the existing statutory law and the constitutional home rule powers of cities in Kansas. We appreciate the initiative of Representative Plumber.

Specifically, the League of Kansas Municipalities takes issue with the conclusions reached in Attorney General Opinion 93-131. We do not believe the conclusion regarding the 30 mph speed limit requirement is correct given the existence of constitutional home rule for cities in Kansas. Essentially the League believes that cities may prescribe more restrictive traffic speeds in residential areas by using their constitutional home rule authority and these more restrictive speed limits do not conflict with existing state statutes. Thus, the League's Governing Body has determined that the League should not seek "corrective" legislation in this case. For this reason we are not supporting or opposing HB 2647. It is the opinion of the League, as expressed by action of the League's governing body, that to support "corrective" legislation, as a result of a questionable Attorney General Opinion, simply serves to further undermine the constitutional home rule authority of Kansas cities. For this reason, the League has not sought legislative action in response to AGO 93-131.

Should the committee determine that HB 2647 be reported favorably, the League would like to suggest an amendment. This amendment would be to assure that the legislation could not be used against cities to further undermine constitutional home rule authority. Specifically we ask that the following language be inserted in the legislation as a new section: **"Nothing in this act or the Uniform Act Regulating Traffic shall be interpreted as preempting the ability of cities, in their respective jurisdictions, from adopting regulations, pursuant to Article 12, Section 5 of the Kansas Constitution, that are more restrictive than this Act or the Uniform Act Regulating Traffic."**

Thank you for allowing the League to testify on this issue.

HOUSE TRANSPORTATION  
January 26, 1994  
Attachment 4

STATE OF KANSAS

Betty McBride, Director  
Robert B. Docking State Office Building  
915 S.W. Harrison St.  
Topeka, Kansas 66626-0001



(913) 296-3601  
FAX (913) 296-3852

Department of Revenue  
*Division of Vehicles*

To: The Honorable Rex Crowell, Chairman  
House Committee on Transportation

From: Betty McBride, Director, Division of Vehicles  
Kansas Department of Revenue

Date: January 26, 1994

Subject: House Bill 2646

Mr. Chairman, members of the committee,

My name is Betty McBride. I am the Director of the Kansas Division of Vehicles, and I appear before you on behalf of the Kansas Department of Revenue regarding House Bill 2646.

The division supports passage of House Bill 2646. As part of the new digitized license system, which will be implemented on July 1, 1994, we will also be retaining a digitized photograph of the licensee. We do not feel this photograph should be included as part of the vehicle record available to the public.

This amendment will not prevent law enforcement agencies from obtaining a copy of the photograph. Under K.S.A. 21-2502, law enforcement is entitled to all the information contained in the division's vehicle records, which would include a photograph of the licensee.

We request that this bill be amended to move the language contained in lines 25, 26, and 27 to line 14 after the word expungement and read as follows: "and all photographs maintained by the division of vehicles in connection with the issuance of drivers licenses shall be confidential". We are requesting this amendment so that all confidential requirements will be kept in the same section.

The information available to the general public under the issuance of the new digitized license system will be the same information which is now available on the current driver's license.

Thank you for the opportunity to appear before you regarding this matter. I stand for your questions.

HOUSE TRANSPORTATION  
January 26, 1994  
Attachment 5

STATE OF KANSAS

Betty McBride, Director  
Robert B. Docking State Office Building  
915 S.W. Harrison St.  
Topeka, Kansas 66626-0001



(913) 296-3601  
FAX (913) 296-3852

Department of Revenue  
*Division of Vehicles*

To: The Honorable Rex Crowell, Chairman  
House Committee on Transportation

From: Betty McBride, Director, Division of Vehicles  
Kansas Department of Revenue

Date: January 26, 1994

Subject: House Bill 2645

Mr. Chairman, members of the committee,

My name is Betty McBride. I am the Director of the Division of Vehicles, and I appear before you on behalf of the Kansas Department of Revenue regarding House Bill 2645.

The division supports passage of House Bill 2645. This amendment will permit the division to provide a better identification of driver license holders under the age of 21 when the division converts to a digitized driver license system on July 1, 1994.

It is also our intent to have the date the licensee turns 21 placed on the driver license. We feel this will provide a more positive identification of person under the age of 21 than the present red background behind the photograph, which is not always readily distinguishable in dim light.

Thank you for allowing me to appear before you on this matter. I stand for your questions.

HOUSE TRANSPORTATION  
January 26, 1994  
Attachment 6



EXECUTIVE DIRECTOR  
JIM SHEEHAN  
Shawnee Mission

**OFFICERS**

PRESIDENT  
SKIP KLEIER  
Carbondale

HOUSE TRANSPORTATION COMMITTEE

1-26-94

1st VICE-PRESIDENT  
MIKE BRAXMEYER  
Atwood

SUPPORTING HB 2645

2nd VICE-PRESIDENT  
TREASURER  
DUANE CROSIER  
Seneca

ASST. TREASURER  
JOHN CUNNINGHAM  
Shawnee Mission

I am Frances Kastner, Director of Governmental Affairs for the Kansas Food Dealers Association. Our membership consists of manufacturers, wholesalers and retailers of food products.

**BOARD OF DIRECTORS**

CHAIRMAN  
J. R. WAYMIRE  
Leavenworth

Our members ask for a driver's license to verify the age of young adults when they purchase cereal malt beverage and cigarettes. Therefore, we support any legislation that is designed to better identify customers under the age of 21.

GLEN CATLIN  
Herington

TOM FLOERSCH  
Fredonia

We have all seen some really good fake I.D.'s and whatever this Committee can do to alleviate that problem will be appreciated.

ROY FRIESEN  
Syracuse

ARNIE GRAHAM  
Emporia

Thank you for the opportunity to support HB 2645 and I respectfully request your favorable consideration of the bill.

STAN HAYES  
Manhattan

BOB McCREARY  
Goddard

JOHN McKEEVER  
Louisburg

*Frances Kastner*  
Frances Kastner, Director  
Governmental Affairs, KFPA

LEONARD McKINZIE  
Overland Park

CLIFF O'BRYHIM  
Overbrook

BILL REUST  
Parsons

LEROY WARREN  
Colby

BILL WEST  
Abilene

DIRECTOR OF  
GOVERNMENTAL AFFAIRS

FRANCES KASTNER

HOUSE TRANSPORTATION  
January 26, 1994  
Attachment 7