

MINUTES OF THE HOUSE COMMITTEE ON TRANSPORTATION.

The meeting was called to order by Chairman Rex Crowell at 1:30 p.m. on February 21, 1994 in Room 519-S of the Capitol.

All members were present except: Rep. Hendrix, 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: Bob Alderson
Rick Scheibe, DOR
Rick Davis, KMIC
Mike Lackey, KDOT
Terry Humphrey, Kansas Manufactured House Assn.
Mary Turkington, KMCA

Others attending: See attached list

Chairman Crowell continued the hearing on HB 2974 relating to the relevant market area for motorcycle dealerships.

Bob Alderson was recognized by the Chairman as an opponent of the bill. He testified that legislation which restricts the establishment of dealerships is anti-competitive. See Attachment 1.

Rick Scheibe was recognized by the Chairman as the next conferee. He testified that the Department of Revenue was neither a proponent nor an opponent of the bill. He noted that the bill requires motorcycle dealers to conform to the same requirements as other vehicle dealers when establishing a new vehicle dealership or relocating an existing new vehicle dealership. See Attachment 2.

Rick Davis responded to questions regarding the different brands of motorcycles that are sold.

The Chairman closed the hearing on HB 2974.

Chairman Crowell continued the hearing on HB 2864 regarding the issuance of excess weight special permits for certain vehicles.

Mike Lackey was recognized by the Chairman to testify as an opponent of the bill. He testified that passage of this legislation would substantially increase the administrative workload associated with the issuance of special permits. In addition, it would jeopardize more than \$48 million in funding annually. See Attachment 3.

Chairman Crowell recognized Mary Turkington to respond to questions from the Committee.

The hearing on HB 2864 was closed by the Chairman.

He opened the hearing on HB 2986 concerning the length and width of certain vehicles.

Chairman Crowell recognized Terry Humphrey as a proponent of the bill. She testified that by deleting the 16 foot width limit, manufactured housing movement would be handled like all other oversize loads that require a special permit from KDOT. See Attachment 4.

The Chairman closed the hearing on HB 2986.

The hearing on HB 2995 providing for a hunter's permit for vehicles registered in Kansas on an apportioned basis was opened by the Chairman.

Mary Turkington was recognized by Chairman Crowell as the first conferee. She testified that the creation of

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TRANSPORTATION, Room 519-S Statehouse, at 1:30 p.m. on February 21, 1994.

a temporary "Hunter's Permit" registration for certain motor carriers would help owner-operators whose vehicles are apportioned and whose lease agreements are canceled, to seek lawful, temporary registration for such vehicles. See Attachment 5.

Chairman Crowell recognized Rick Scheibe as a proponent of the bill. He testified that this permit will have the effect of allowing the vehicle owner to operate legally while searching for another lease. See Attachment 6.

The Chairman closed the hearing on HB 2995.

Chairman Crowell called the Committee's attention to HB 2694 regarding proportional fleet registration and HB 2695 regarding increasing fees for proportional fleet registrations.

Rep. Haulmark made a motion to amend the provisions of HB 2695 into HB 2694. Rep. Smith seconded the motion. The motion carried.

Rep. King made a motion to recommend favorably for passage HB 2694 as amended. Rep. Dillon seconded the motion. The motion carried.

The Chairman called the Committee's attention to HB 2780 relating to saddlemount vehicle transport combinations. Rep. King made a motion to favorably recommend HB 2780 for passage and that it be placed on the Consent Calendar because it is considered to be of a non-controversial nature. It was seconded by Rep. Shallenburger. The motion carried.

Chairman Crowell called the Committee's attention to HB 2805 concerning fees charged for information from records of the Division of Vehicles.

Rep. King made a motion to recommend favorably for passage HB 2805 and that it be placed on the Consent Calendar because it is considered to be of a non-controversial nature. It was seconded by Rep. Haulmark. The motion carried.

The Chairman called the Committee's attention to HB 2809 concerning the exemption of certain special motor vehicle fuel from tax. Rep. Pauls made a motion to recommend HB 2809 favorably for passage. It was seconded by Rep. Haulmark. Rep. McKinney made a substitute motion to exempt distributors from making reports on transactions involving dyed special fuel used for non-highway purposes. It was seconded by Rep. Dawson. The substitute motion carried.

Rep. King made a motion to favorably recommend for passage, HB 2809 as amended. it was seconded by Rep. Correll. The motion carried.

The meeting was adjourned at 2:34 p.m. by Chairman Crowell with the next meeting scheduled for February 22, 1994, at 1:30 p.m. in Room 519-S of the Capitol.

HOUSE TRANSPORTATION COMMITTEE

[illegible]

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OF COUNSEL

DANIEL B. BAILEY

MEMORANDUM

TO: House Committee on Transportation

FROM: Bob Alderson, Legislative Counsel for Motorcycle
Industry Council

DATE: February 17, 1994

RE: House Bill No. 2974 -- Establishment or Relocation of
Motorcycle Dealerships

The Motorcycle Industry Council is a national trade association which represents the manufacturers and distributors of motorcycles and over 100 other companies involved in allied trades. The Council wishes to express its opposition to HB 2974, which would add motorcycle dealerships to the law restricting establishment or relocation of a dealership.

We believe legislation which restricts the establishment of dealerships is anti-competitive and adversely affects competition in the sale and servicing of new vehicles. It unnecessarily insulates established dealers from intra-brand competition and results in higher prices to the consumer for motor vehicles, parts and service.

This type of law gives certain existing dealers the right to delay the establishment of a new dealership of the same line-

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make simply by filing a protest. This automatically delays any opening or relocation until a hearing has been held and a decision rendered.

In addition to concerns in general with this type of legislation, we feel it is especially unwarranted in the case of motorcycle franchises. Motorcycle dealerships are typically much smaller in size than car dealerships in terms of service facilities and personnel. Yet, depending on population, dealers located within either a 15 mile or 10 mile radius of a proposed location may protest dealership establishment. This constitutes either a 706 or 314 square mile area in which existing dealers are allowed to impede and attempt to lock out competition. One motorcycle dealer with a small facility cannot provide adequate and convenient sales and service to the public in an area of 706 square miles.

The protest and hearing process permits existing dealers to delay the opening of a new dealership, leaving the prospective dealer with a large amount of capital unprofitably invested in the new venture (or, in the case of a relocating dealer, keeps that dealer for a longer period in a less desirable location). In the case of a motorcycle dealership where the facility is well suited to many types of businesses, the prospective dealership site may not still be available by the time the protest is resolved. The protest process also causes the

potential dealer or manufacturer to incur high legal fees during the proceedings.

The ability of an existing business to delay the operation of a competitor constitutes very strong economic power. We are aware of no other type of business which enjoys such power.

The change in the law contemplated by HB 2974 with respect to motorcycle dealerships could also serve to distort competition. It may encourage circumventive tactics by hopeful new motorcycle dealers wishing to avoid the costs and delays inherent in the procedure. For example, a new motorcycle dealer might select a proposed location just beyond the perimeter of the specified area to avoid a protest, while passing up a location that might better serve the public. Worse, passage of the law could drive businesses out of the state completely to states with no such restrictions on competition.

The statute amended by HB 2974 not only restricts manufacturers and distributors in opening or relocating dealerships, the law also adversely affects the entrepreneur, typically a small businessperson, who is risking his or her own capital in a new business venture. Under these provisions, this prospective motorcycle dealer's opportunities to compete and profit are subordinated to those of the dealer

or dealers who started their ventures earlier. Any decision to insulate the first arrivals from competition from later entrants raises fundamental questions of fairness and equality of opportunity. While established dealers can now voice their views on the merits of the bill, the persons wishing to become members of the Kansas motorcycle dealer community in the future cannot be heard now. Their position would undoubtedly favor the freedom of open competition in selecting locations.

This law protects a specific class of businesses from competition at the expense of others -- the consumers, the potential new motor vehicle dealers and the motor vehicle manufacturers. Its provisions shelter established dealers from direct competition, and restrictive legislation such as this can only adversely affect the public by discouraging competition, preserving higher prices and generating protracted and costly protest proceedings whose costs ultimately are passed on to consumers.

Please do not add to the hardship by including motorcycle dealerships in the law.

STATE OF KANSAS



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

(913) 296-3601
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Department of Revenue
Division of Vehicles

To: The Honorable Rex Crowell, Chairman
House Transportation Committee

From: Rick Scheibe, Vehicle Services Administrator
Division of Vehicles

Date: February 21, 1994

Mr. Chairman, Members of the Committee,

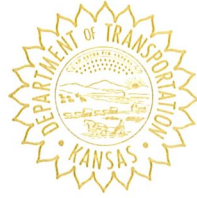
My name is Rick Scheibe. I appear before you on behalf of Betty McBride, Director, Division of Vehicles, and the Kansas Department of Revenue regarding House Bill 2974.

This bill would repeal the exemption of motorcycle dealers from the requirements of the Vehicle Dealer's and Manufacturer's Licensing Act.

If this bill is passed, motorcycle dealers will have to conform to the same requirements as other vehicle dealers when establishing a new vehicle dealership or relocating an existing new vehicle dealership. Included among those requirements would be the adherence to a "relative market area" where the same line-make of vehicle is already present.

Thank you for allowing me this opportunity to present my testimony on this bill. I would stand for your questions.

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Attachment 2



Michael L. Johnston
Secretary of Transportation

KANSAS DEPARTMENT OF TRANSPORTATION

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Joan Finney
Governor of Kansas

**TESTIMONY BEFORE THE
HOUSE TRANSPORTATION COMMITTEE
February 17, 1994**

REGARDING H.B. 2864

Mr. Chairman and Members of the Committee:

This legislation would create a new category of special permits for the movement of grain on the Interstate, up to a maximum of 85,500 pounds gross weight. The Department of Transportation opposes this legislation for several reasons. Passage of this legislation would jeopardize more than \$48 million in funding annually. It would also substantially increase the administrative workload associated with the issuance of special permits.

Federal law requires that the state limit the maximum weight of vehicles traveling on the Interstate to 20,000 pounds on a single axle, 34,000 pounds on tandem axles, and 80,000 pounds gross weight. The penalty for noncompliance is the withholding of Federal highway funds for the National Highway System (which includes the Interstate as well as other designated routes). This amounts to approximately \$48.1 million for FFY 1995. The Federal Highway Administration reviews each state's compliance with these requirements annually, and has interpreted its compliance requirements strictly in the past.

States' authority to issue overweight permits for divisible loads -- that is, loads whose weight can be reduced by removing a portion thereof -- is based on grandfather rights dating from 1956. The question of whether FHWA would determine that Kansas has grandfather rights in regard to "divisible loads" has never been decided. Kansas had a law in effect in 1956 that would have allowed the issuance of special permits for divisible loads, but the Highway Commission's regulations only provided for the issuance of special permits for nondivisible loads. Currently, the only permits the Department issues for divisible loads in excess of prescribed weights are for triple trailers operating on I-70 from Colby to Goodland, and for longer combination vehicles on turnpike access routes.

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Currently, about 60,000 permits are approved annually for vehicles with nondivisible loads that exceed the normal weight limits to operate on Kansas highways. The Department estimates that passage of H.B. 2864 would increase the demand for issuance of permits by about 5,000 permits annually. This would increase the amount of permit revenues collected by approximately \$126,000 beginning in FY 1995. Since the Department's permit staff is currently operating at or near maximum effectiveness, implementation of this legislation would require a minimum of one additional person at an estimated cost of \$30,000 annually.

KANSAS MANUFACTURED HOUSING ASSOCIATION

TESTIMONY BEFORE THE HOUSE COMMITTEE ON TRANSPORTATION

TO: Representative Rex Crowell, Chairman
Members of the Committee

FROM: Terry Humphrey, Executive Director

DATE: February 17, 1994

Mr. Chairman and members of the committee, on behalf of the Kansas Manufactured Housing Association (KMHA) I am here today to ask your support of HB 2986 which deletes from the statute the 16 foot width limit for manufactured housing transportation. By deleting this provision manufactured housing movement will be handled like all other oversize loads that require a special permit. Currently, the Department of Transportation rule and regulations for oversize loads allows a width of 16 1/2 feet.

KMHA is requesting this change to accommodate consumer demand. Over the last several years there has been an increase in the demand for residential design manufactured housing and consequently the industry has been asked to build homes with larger eaves projections. Unfortunately the only way to do this and legally transport the home is to reduce the size of the home. This is typically unacceptable to our customers. Therefore, a solution to this problem is to treat manufactured housing like other oversized loads where the dimension limit is 16 feet 6 inches. An extra 6 inches will allow manufacturers to address this request.

Over the past year I have been working with the DOT on improvements to oversize/overweight regulations. Throughout the course of our work, I have asked the DOT's Bureau of Traffic Engineering if they could support the proposed changes and their answer was yes.

In closing, I respectfully request the passage of HB 2986. Thank you.

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Attachment 4

STATEMENT

By The

KANSAS MOTOR CARRIERS ASSOCIATION

In support of H.B. 2995 which
provides for a temporary "hunter's
permit" for certain motor vehicles.

Presented to the House Transportation
Committee, Rep. Rex Crowell, Chairman;
Statehouse, Topeka, February 21, 1994.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am Mary E. Turkington, Executive Director of the Kansas Motor Carriers Association with offices in Topeka. I appear here along with Tom Whitaker, KMCA Governmental Relations Director; representing our member-firms and the highway transportation industry.

We support the provisions of House Bill 2995 which would create a temporary "Hunter's Permit" registration for certain motor carriers.

Currently, under Kansas law, if an owner-operator leases his power unit (or a power unit and trailer) to a regulated motor carrier for more than 30 days (long-term lease), the motor carrier must register that owner-operator equipment in the name of the motor carrier, the lessee. The motor carrier owns that registration.

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If, for whatever reason, the lease is cancelled, the owner-operator is without a registration for his vehicle.

House Bill 2995 provides that the owner of any motor vehicle which was registered in Kansas on an apportioned basis with the division of vehicles, but which cannot legally be operated in Kansas because of a lease cancellation, may, in lieu of the payment of other registration fees, obtain a "Hunter's Permit" from the Division of Vehicles. Such vehicle owner must provide proof of ownership and appropriate insurance.

The "Hunter's Permit" only permits the vehicle owner to operate his vehicle empty and further requires the vehicle to be operated only for the purpose of securing a new lease agreement under which proper registration may be obtained. Operation of any vehicle without proper registration or a "Hunter's Permit" shall constitute a misdemeanor.

Application for a "Hunter's Permit" shall be made upon forms prescribed by the Director of Vehicles and shall be made to the Division of Vehicles.

Before a "Hunter's Permit" may be issued, the applicant shall provide:

1. A release signed by the previous registrant in such form as is acceptable to the Division of Vehicles, that the owner has surrendered all plates, cab cards and other evidence of previous registration to the previous registrant.
2. Evidence that appropriate insurance currently is in force in the vehicle owner's name.

The fee for a "Hunter's Permit" would be \$26 and such fees would be collected by the Division of Vehicles.

When the \$26 fee has been paid for a motor vehicle, no other registration fee would be required for any trailer or semi-trailer owned by the permit applicant and which is being towed by such permitted vehicle.

Nothing in the proposed legislation would be construed to change the vehicle owner's duty to timely file any necessary fuel reports and to pay any fuel taxes owed.

The "Hunter's Permit" authorized by this bill is recognized by the International Registration Plan under which apportioned vehicles are registered in this state. Missouri has a similar provision in its statutes. We strongly urge the Committee to recommend this bill for passage to help those owner-operators whose vehicles are apportioned and whose lease agreements are cancelled, to seek lawful, temporary registration for such vehicles.

We will be pleased to respond to any questions you may have.

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STATE OF KANSAS



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FAX (913) 296-3852

Department of Revenue
Division of Vehicles

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

From: Rick Scheibe, Vehicle Services Administrator
Division of Vehicles, Kansas Department of Revenue

Date: February 21, 1994

Mr. Chairman, Members of the Committee,

My name is Rick Scheibe. I appear before you on behalf of Betty McBride, Director of the Division of Vehicles, and the Kansas Department of Revenue, regarding House Bill 2995.

The Division of Vehicles supports the concept of a "hunter's permit", and asks this committee to consider approval of House Bill 2995.

To obtain a "hunter's permit", the vehicle owner must present a release of lease, signed by the previous lessee, stating that all license plates and cab cards have been surrendered, and that the owner has appropriate insurance on his vehicle. The fee for a "hunter's permit" is \$26.00.

This permit will have the effect of allowing the vehicle owner to operate legally, while searching for another lease. Without this permit, the vehicle owner would have to either operate illegally or obtain a regular registration from the county treasurer. And because the International Registration Plan (IRP) requires member states, which includes Kansas, to offer a "hunter's permit", it would bring us into compliance with IRP requirements.

This bill will have no fiscal impact on the Division of Vehicles.

Thank you for allowing me the opportunity to present my testimony on this bill. I would stand for your questions.

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Attachment 6