

SESSION OF 2010

**SUPPLEMENTAL NOTE ON
SUBSTITUTE FOR SENATE BILL NO. 462**

As Amended by House Committee on
Transportation

Brief*

Sub. for SB 462 would specify indirect costs for which the owner and driver of any vehicle or object being illegally operated on any highway or highway structure would be liable if that operation causes damage to the highway or highway structure. The owner and driver would be liable for reasonable costs associated with repair of damages, and law regarding comparative negligence would apply. Current law makes the driver and owner liable for "damage" caused by illegal operation.

The bill would include in indirect costs the reasonable costs associated with damage assessment, engineering and design, mobilization, traffic control, and detours.

Background

The bill was requested by the Kansas Department of Transportation (KDOT), and its representative appeared as a proponent of the bill before the Senate Committee on Transportation. Written testimony in support of the bill was submitted by the Kansas Association of Counties.

Those who presented testimony in opposition to the bill were representatives of The State Farm Insurance Companies and the Kansas Association of Insurance Agents. Representatives of the Kansas Manufactured Housing

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Association, the Kansas Agribusiness Retailers Association, and Midwest Crane and Rigging submitted written testimony opposing the bill.

The Senate Committee on Transportation recommended a substitute bill that incorporated multiple amendments to the original bill. Representatives of both KDOT and entities that had opposed the original bill told the Senate Committee on Transportation that they agreed to the language placed into the substitute bill.

The House Committee on Transportation received proponent testimony from representatives of KDOT and the Kansas Association of Counties. It received opponent testimony from representatives of the Kansas Cooperative Council, the Kansas Grain and Feed Association and Kansas Agribusiness Retailers Association, the Kansas Manufactured Housing Association, American Family Insurance, and the Kansas Association of Property Casualty Insurance Companies and the Property Casualty Insurers Association of America.

The House Committee amended the bill to include additional changes to which both proponents and opponents had agreed. The changes added language regarding comparative negligence and limited the types of indirect costs for which a party causing the damage would be liable.

According to the fiscal note on the original bill, KDOT indicates the bill's fiscal effect is difficult to estimate. Over the past five years, the agency has averaged approximately \$1.1 million per year for receipts from payments on damages to highways and highway structures. However, the cost to KDOT for repair of the Hall Street Bridge in Hays following an incident in February 2006 was \$673,000, including indirect costs as listed in the bill. The agency received \$426,000 for the "damage" specified in current law. The agency states that SB 462 would clarify any future dispute in favor of the agency recovering expenditures for indirect costs related to repair of highways and highway structures.