

**Testimony in support of Senate Bill 79
To the Senate Transportation Committee
February 19, 2019**

Chairman Petersen, Vice-chair Goddard, Ranking member Pettey and Committee Members:

I am Skyler Richardson of Lawrence and I come to you today as a proponent of this Senate Bill and I would like to explain to you why. I believe the change should be made for overall traffic safety efforts of motoring Kansans, the Kansan law enforcement community, and to ease the burden on our judicial community.

If you haven't read K.S.A 8-1545, the law this Senate bill would be amending if passed, you might think to yourself why we are even having a discussion on changing the law governing how left turns are made in Kansas. That's because the Kansas Driving Handbook is very clear on how a left turn is to be made in the State of Kansas and is probably how you understand a left turn is required to be made. However, K.S.A. 8-1545 is not as clear. This has very wide spread implications as the law needs to be understandable for the citizens who are bound by the statute's requirements, but furthermore, the law will be interpreted and even enforced by many others, making it very important for the law to be clearly written so it is understood and enforced the same across the state. How a law is written directly affects citizens of Kansas as law enforcement officers, lawyers, judges, and insurance companies as these entities are tasked with understanding and interpreting the law to protect other Kansans while holding those Kansans who violate the law accountable. For example, if a Kansan is involved in a motor vehicle accident, these same parties evaluate the events leading up to the crash. From the law enforcement officer investigating the crash and determining what traffic laws were violated and the issuance of a traffic citation(s), to the prosecutor and judges determining if the person should be charged with or convicted of violating the traffic law and once the accident report is submitted to KDOT, the insurance company does their own analysis of the events leading up to the crash and determines fault. If any one of these parties differ on their views on what the left turn law statutes says and requires of drivers, it could have significant implications, some even monetary, for Kansans.

I am more familiar with the law enforcement side, as I have been a law enforcement officer for over 5 years. This became a thought of mine a few years ago, when I became part of a discussion amongst other officers about the left turn statutes as it exists today. Some officers interpreted it how the driving handbook discusses it, and the others interpreted it as saying something different. I sought the advice of one of my local prosecutors to see how they would interpret it for charging purposes or how they would argue it on behalf of the city. The prosecutor indicated the judge could rule either way and suggested that I not hinge an entire case on a traffic stop for improper left turns - as if the stop became invalid, the entire case would be at jeopardy due to the Exclusionary Rule. So, from that date forward I have chosen to not make stops based solely upon improper left turns and I see plenty of drivers on a daily basis

turning left improperly. This affects the ability for law enforcement to make stops to maintain traffic safety and educate motorists. It's been especially impactful for me at night trying to combat the epidemic of impaired drivers, as one of the greatest indicators demonstrated by a driver impaired on alcohol specifically is the making of wide turns. If the statute is interpreted as the drivers handbook states, I could make plenty of these stops at night for drivers making wide, improper, left turns and encounter and apprehend many more impaired drivers. I hate to think about all the impaired drivers I have chosen to not stop because all I saw was the improper left turn. So, I began to research and attempted to find a way to make the statute more clear - and here I am today. Again, thank you for your time to allow me to speak to you.

I will explain a bit further why the current law is insufficient. Currently, the law says in part, "any left turn shall be made so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered." The portion of this statute that is ambiguous begins with the words "to leave". These words have two distinct meanings, and these two meanings results in the two valid, but different, interpretations of the statute. "Leave" can mean to depart from or into, or it can mean to cause to remain open. In other words, to depart from or into the extreme left-hand lane lawfully available, as the driving handbook suggests, or to cause to remain open the extreme left-hand lane. The latter explanation seems to suggest drivers turn into the lane opposite the extreme left-hand lane, for the purposes of leaving the lane open (the word "leave" used again to demonstrate its multiple meaning).

It's also important to note the implications beyond the effect the current law could have an effect on Kansans, which I've already discussed impacts traffic safety, and maybe even financial ramifications. The current law could also be very easily found unconstitutional in court given the challenge to the language being raised. As discussed in greater detail in the attached addendum I submitted to Senator Francisco, a 1991 case in Kansas Supreme Court first broached this issue in our state (Guillan V. Watts, 249 Kan. 606 (1991) 822 P.2d 582). The court ruled against declaring the law unconstitutional, but said the law wasn't "well written". This also sets the precedence for a much different ruling if another case is challenged on grounds of a stop for an improper left turn, and a different set of judges could in fact find the statute unconstitutional. As I have already alluded to, the statute can be interpreted differently depending on who is asked. Another example is a Georgia Supreme Court case from 2009 (McNair v. State). At the time of that case, Georgia had an identical statute as Kansas does now, and their Justices found the statute unconstitutional. The Justices indicated the statute yielded two "diametrically-opposite" interpretations and indicated both were reasonable. To quote their ruling, the court found the law was "so vague that persons of common intelligence must necessarily guess at its meaning and differ as to its application." We have a Kansas case that indicated our statute was not unconstitutional, but not "well written", and we have another court in Georgia analyzing the exact same law ruling it was unconstitutional on the same grounds. What better evidence of a law being ambiguous than two sets of judges ruling differently on the same issue nearly twenty years apart? If lawyers cannot agree on the interpretations, then how can we decide or Kansans of "common intelligence" to understand and practice this correctly? We should address this before it becomes an eventual legal challenge in Kansas.

I thought of one scenario during my research involving two vehicles, one vehicle intending on turning right and one vehicle intending on turning left. The left turning vehicle has a green arrow and the right turning vehicle has a steady red traffic signal. The left turning vehicle has preferential right of way because of the green arrow, however, in Kansas we allow vehicles to turn right on a red light after stopping and yielding the right of way. If the driver turning left and right interpreted the statute as the driving handbook suggests, then the vehicle turning right could theoretically turn right at the same time as the driver turning left, assuming the vehicle stopped prior to the turn. In this case, the right turning driver may have believed the requirement to yield the right of way having been met due to the left turning driver not needing the right of way of the extreme right-hand lane. If the two vehicles were involved in a crash, who is right and who is wrong? Who gets the traffic citation? And who is at fault and who gets to pay for damages? If this were a more serious accident involving serious injury or death, who gets charged criminally or civilly? With the current law, either driver could be found at varying levels of fault depending on the interpretation of the law used.

For the reasons I have discussed regarding impacts to traffic safety, impacts and burdens on law enforcement and judicial systems, and overall the importance of respecting the rights of citizens to be held to constitutional standards, I am asking for this legislative body to take these proactive steps to amend this law. I am a proponent of this amendment, although not necessarily bound to the current language as it exists in the amendment because I am open for any and all reasonable modifications to be made to make this bill passable, and hopefully signed into a very clear and concise law.

Thanks for your time, and I am open to any questions you have, and I am also available to assist in any way.