



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 90- 112

Ed C. Rolfs, Secretary
Kansas Department of Revenue
Docking State Office Building
915 S.W. Harrison Street
Topeka, Kansas 66612-1588

Re: Automobiles and Other Vehicles--General Provisions;
Registration of Vehicles--Registration of Vehicles
Operated in This State; Exceptions; Leased Vehicles

Synopsis: 1990 House Bill No. 2598 does not alter or affect
the vehicle rental agency provisions of the
International Registration Plan as such plan was
entered into pursuant to the continuing authority
of K.S.A. 1989 Supp. 8-127 and K.S.A. 74-4302.
Cited herein: K.S.A. 1989 Supp. 8-127; K.S.A.
8-129; K.S.A. 1989 Supp. 8-145; K.S.A. 8-149;
74-4302; 79-5107; 1990 H.B. No. 2598.

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Dear Secretary Rolfs:

You request our opinion regarding what effect, if any, 1990
House Bill No. 2598 has on the State's current method of
registering motor vehicles owned by rental agencies.

Section 1 of 1990 House Bill No. 2598 sets forth a means of
determining the residence of an individual or other entity for
purposes of motor vehicle registration. It provides in part:

"(a) For purposes of article 1 of chapter
8 of the Kansas Statutes Annotated, a

person shall be deemed to be a resident of a county in this state if:

. . . .

"(2) the person, partnership, company, firm, corporation or association maintains an office within such county to lease or rent motor vehicles, if such motor vehicles are operated within the state for a period exceeding 60 days."

Sections 2 through 5 of the bill amend K.S.A. 8-129, K.S.A. 8-149, K.S.A. 1989 Supp. 8-145 and K.S.A. 79-5107 respectively. K.S.A. 8-129, as amended, requires registration of vehicles, not otherwise exempted from registration, in either the county in which the owner of the vehicle resides, or in the county in which the owner has a bona fide place of business if the vehicle in question is garaged in that county for at least 90 days.

You explain that currently interstate rental agencies register vehicles in their fleets pursuant to the provisions of the International Registration Plan (I.R.P.). Under the I.R.P., rental agencies may base passenger vehicles with out-of-state registrations at their Kansas locations as long as a portion of the vehicles in their fleets are registered in Kansas. The number of vehicles required to be registered in Kansas is representative of the portion of gross rental revenues derived from business conducted in the state during the previous year.

The I.R.P. is a reciprocal interstate agreement which Kansas entered into pursuant to K.S.A. 1989 Supp. 8-127 and K.S.A. 74-4302. Subsection (a) of K.S.A. 1989 Supp. 8-127 provides as follows:

"(a) Every owner of a motor vehicle, motorized bicycle, trailer or semitrailer intended to be operated upon any highway in this state, whether such owner is a resident of this state or another state, or such motor vehicle, motorized bicycle, trailer or semitrailer is based in this state or another state shall, before any such vehicle is operated in this state, apply for and obtain registration in this state under the provisions of K.S.A.

8-126 to 8-149, inclusive, and acts amendatory thereof or supplemental thereto, except as otherwise provided by law or by any interstate contract, agreement, arrangement or declaration made by the director of vehicles."
(Emphasis added).

K.S.A. 74-4302 provides in part:

"The director of vehicles is . . . authorized to . . . , enter into such interstate contracts and agreements . . . as he or she may deem proper, expedient, fair and equitable to this state or the citizens thereof . . . with the view of promoting and establishing such fair, just and equitable interstate agreements . . . for the . . . registration . . . of vehicles licensed in this state and operated on the highways of some other state, and those owned and licensed in some other state and operated on the highways of this state. . . .

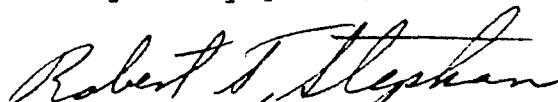
"Any agreement . . . entered into . . . under authority of this act may specify either residence or base as a determining factor for rights or privileges granted, or may specify any other factor or combination of factors for making such determination."

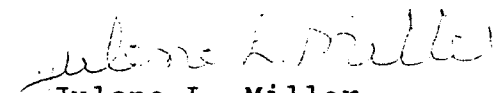
1990 House Bill No. 2598 did not specifically amend or repeal K.S.A. 1989 Supp. 8-127 or K.S.A. 74-4302, nor did any other enactment of the 1990 legislature. Section 1 of H.B. 2598 merely defines the term residence for purposes of registering motor vehicles under K.S.A. 8-126 et seq. It does not bring vehicles into the registration requirements which are otherwise exempted pursuant to those statutes. (This section would, however, identify, for rental vehicles which are required to be registered in the state, the county in which they should be registered.) Additionally, we have found no legislative intent for H.B. 2598 to alter the current provisions of the I.R.P. (We note that the legislative post audit committee in 1984 issued a performance audit report indicating that some rental agencies appeared in noncompliance with the registration requirements of the I.R.P. However, the

6 year lapse between the report and enactment of H.B. 2598 dispels any inference that the latter was intended to affect the I.R.P.) In any event, rules of statutory construction advise that repeal by implication is not preferred. See Matter of Suesz Estate, 228 Kan. 275, 276 (1980); Capital Services, Inc. v. Dahlinger Pontiac-Cadillac, Inc., 232 Kan. 419 (1983); Kansas Racing Management, Inc. v. Kansas Racing Commission, 244 Kan. 343 (1989).

Therefore, it is our opinion that K.S.A. 1989 Supp. 8-127 and K.S.A. 74-4302 continue to authorize the director of vehicles to "otherwise provide" for registration of rental agency vehicles through the I.R.P. 1990 House Bill No. 2598 has no effect on this authority or agreements entered pursuant to it.

Very truly yours,


ROBERT T. STEPHAN
Attorney General of Kansas


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