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TO: Representative Richard Proehl, Chairman
Representative Leo Delperdang, Vice-Chairman
Representative Henry Helgerson, Ranking Minority Member
Members of the House Committee on Transportation

FROM: Blake A. Shuart, Hutton & Hutton Law Firm, L.L.C., Wichita
Individually and on behalf of the firm

DATE: March 28, 2022

RE: SB 546: AN ACT concerning motor vehicles; relating to autonomous motor vehicles; providing for the use and regulation thereof; establishing the autonomous vehicle advisory committee; amending K.S.A. 2021 Supp. 8-2106 and 8-2204 and repealing the existing sections. (**OPPOSE**)

Dear Chairman Proehl, Vice-Chairman Delperdang, Ranking Minority Member Helgerson and the Members of the House Committee on Transportation,

I am an attorney with the Hutton & Hutton Law Firm, L.L.C., based in Wichita, and am also a member of the Kansas Trial Lawyers Association (KTLA). I had the privilege of addressing the Senate Transportation Committee in February in opposition of SB 546's predecessor, SB 379. SB 379 was not passed out of Committee. I again had the privilege of addressing the Senate Transportation Committee on March 10 in opposition of the replacement bill, SB 546, as SB 546 did not fix the primary flaws in SB 379. SB 546 was passed out of Committee as amended and then amended by the Senate Committee of the Whole before it passed on Final Action last Wednesday, March 23.

I now appreciate the opportunity to appear before the House Transportation Committee tomorrow, March 29, via WebEx in continued opposition of this bill in its current form. This written testimony is intended as a brief supplement to my WebEx testimony.

I do not oppose in any way the mission behind this important legislation – Kansas's foray into the world of autonomous/driverless vehicles – and neither does the Kansas Trial Lawyers Association. But this bill will serve as the foundation for all future laws & regulations, making it important for us to scrutinize every last detail. Nothing is more important than the safety and lives of Kansans – and when safety and lives are impacted due to errors, failures or mistakes, accountability is crucial.

The recent amendments in the Senate Committee of the Whole included the addition of a weight limit (34,000 pounds on tandem axles through July 1, 2025) in §2(a)(4) and a requirement that a conventional human driver be physically present in every driverless-capable that provides transportation services for riders (e.g., Uber) for the first 24 consecutive months in §2(a)(5). Yet at least two fundamental problems remain that have never been fixed:

First, this legislation continues to hoist the financial responsibility for catastrophic injury and death onto the backs of Kansans by requiring only that these driverless vehicles carry the minimum amount of bodily injury coverage required under Kansas law. It continues to reference in §§ 2(c)(1) & 3 the requirement of “insurance, self-insurance or other financial security” required “pursuant to K.S.A. 40-3104, and amendments thereto.” This ultimately equates to \$25,000 per person / \$50,000 total per occurrence under K.S.A. 40-3107. These liability limits are unreasonably low and have been for many years, but SB 546 would now extend the problem of under-insured drivers to vehicles with no human driver at all behind the wheel. The highly successful corporations intending to do business with autonomous vehicles in Kansas can afford to purchase adequate liability insurance and should want to have their expensive vehicles adequately insured.

The scope of permissible usage has been extended from “middle mile” (fixed, repeatable route) travel under the prior bill, SB 379, to “the public highways of this state” (§ 2(a)), meaning there are no restrictions at all. The level of danger to the average Kansan has increased due to this expansion but the level of proposed insurance has not. Alabama and Louisiana both required \$2 million in liability coverage for autonomous commercial motor vehicles and Kansans are no less deserving of protection.

Beyond the insurance problem is the continued question of *owner* versus *manufacturer* liability. This current bill places the burden on the “owner” of the vehicle to submit a law enforcement interaction plan to the Department of Transportation (§2(b)) but the “owner” does not have the requisite knowledge required to complete such a task. Further, under new §12(h), the “registered owner” shall be responsible for all traffic law violations when the automated driving system is engaged. Accountability is again missing for the person who manufactures, implements, tests, maintains and exercises exclusive discretion over the operational aspects of the automated driving system.

These continue to be the two primary concerns as this new legislation remains under review. I respectfully urge this Committee not to pass SB 546 and again submit than an interim *Special Committee on Autonomous Motor Vehicles* would be a reasonable option to delve into the fine details and make recommendations to ensure subsequent passage of a proper bill. I thank the Committee for your time and consideration.