

Approved 4/22/83  
Date

MINUTES OF THE House COMMITTEE ON Transportation

The meeting was called to order by Rep. Rex Crowell at  
Chairperson

1:30 ~~am~~ p.m. on February 16, 1983 in room 519-S of the Capitol.

All members were present ~~except~~

Committee staff present:

Fred Carman, Revisor of Statutes  
Hank Avila, Legislative Research  
Pam Somerville, Committee Secretary

Conferees appearing before the committee:

Gene Johnson, Kansas Community Alcohol Safety Action Project Coordinators (ASAP)  
Lorne Phillips, Commissioner, SRS/Alcohol and Drug Abuse Services  
Jim Yonally, Kansas Association of Alcohol and Drug Program Directors  
Mr. Ron Eisenbarth, Kansas Citizens Advisory Committee on Alcohol and Other  
Drug Abuse (KCCADA).  
Mr. Steve Montgomery, Kansas Department of Revenue  
Michael Byington, Kansas Association for the Blind and Visually Impaired  
Sam P. Wilson, Kansas Association for the Blind and Visually Impaired

Others Present: See attachment 1.

The meeting was called to order by the Chairman. Minutes of January 31, 1983 were approved as written. The first order of business was HB 2254. Rep. Heinemann, sponsor of HB 2254 was unable to attend so the Chairman introduced Mr. Fred Carman, Staff Revisor, to brief the committee on the bill's contents.

Mr. Carman explained to the committee that the language on page 6, lines 210-215 was new language. The language states: 1) the court, for good cause, has authority to stay the effective date of the sentence imposed (the author intends to make clear to the court what they can do), and 2) time spent for in-patient hospital treatment for alcoholism or drug abuse may be credited against the sentence imposed.

The Chairman opened the floor to questions. Rep. Sutter inquired why the author chose "may" rather than "shall" in line 211. Mr. Carman replied that he did not know. Rep. Dempsey expressed concern whether the language was in fact a form of plea-bargaining.

Chairman Crowell asked whether "may stay" meant the entire life of the person. Mr. Carman said that was for the court to decide and he did not feel that it meant an indefinite stay.

Chairman Crowell inquired whether it would be possible to strengthen the language to avoid plea-bargaining. Mr. Carman agreed that this bill could be used as a vehicle for such an effort.

Mr. Gene Johnson, representing Kansas Community Alcohol Safety Action Project Coordinators (ASAP), presented testimony in support of HB 2254 (Attachment 2). Mr. Johnson stated the Agency could support the bill entirely if the statement on line 210 and 211 "the court may stay the effective date of a sentence imposed under this section for good cause" be stricken or cleared up in a manner that "good cause" would only relate to in-patient hospital treatment. An additional suggested change would be to modify in the following sentence the phrase "against the sentence imposed" by adding "after a minimum jail sentence is incurred."

Mr. Lorne Phillips, Commissioner, SRS/Alcohol and Drug Abuse Services presented testimony in support of HB 2254 adding he felt Line 212 needed clarification in that the bill could imply attending a treatment program is punishment. He felt if this could be clarified, he would be in full support of the bill. (Attachment 3)

The next conferee was Mr. Jim Yonally, Kansas Association of Alcohol and Drug Program Directors. Mr. Yonally supports HB 2254.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,  
room 519-S, Statehouse, at 1:30 ~~x.x~~/p.m. on February 16, 19 83

Mr. Ron Eisenbarth, Kansas Citizens Advisory Committee on Alcohol and Other Drug Abuse (KCCADA), supported remarks by Dr. Phillips and suggested the same amendments previously mentioned.

Mr. Steve Montgomery, Kansas Department of Revenue, Division of Vehicles, presented testimony in support of HB 2254. Mr. Montgomery suggested that the word "jail" be inserted prior to the word "sentence" in lines 210 and 214. (See attachment 4).

Rep. Knopp inquired as to diversion reporting (1982 SB 699) on driving records, and whether those entering into the diversion agreements have a code appearing on their driving record. Mr. Montgomery stated that a separate code for DUI shows up only on the printouts that go to law enforcement officers. A different printout goes to insurance companies and the general public.

The next bill set for a hearing was HB 2287. Mr. Steve Montgomery, DOR, Division of Vehicles presented testimony in support of HB 2287 explaining the content of the bill and its intent. The bill is designed to require a cash bond be posted for failure to obtain liability insurance and failure to obtain interstate fuel tax authorization. Currently, cash bond is not required and those persons issued citations are not forced to appear. Mr. Montgomery stated the department felt by having the requirement to post cash bond it would help their enforcement and also bring in additional revenue.

The Chairman asked Mr. Montgomery to provide written testimony and he agreed to do so.

The Chairman then recognized Mr. Michael Byington, Kansas Association for the Blind and Visually Impaired. (Attachment 5). Mr. Byington requested the committee introduce a bill amending K.S.A. 8-1508 which would prohibit right turns at a red light. Mr. Sam P. Wilson, Kansas Association for the Blind and Visually Impaired supported Mr. Byington in his request for the draft.

The meeting adjourned at 2:50 p.m.



GUEST LIST

COMMITTEE: Transportation

DATE: 2/16/83

PLEASE PRINT

NAME	ADDRESS	COMPANY/ORGANIZATION
Rev Eisenbarth	1318 <sup>Topeka</sup> Fillmore	KCCADA
Jim Youally	Topeka	KAAOPD
Jane Johnson	Topeka, KA	KC ASAPE
RICHARD SCHUTZ	Topeka, KS	SRS
Jim Clark	"	KCDAA
Margaret D. Wilson	1021-n-7 <sup>A</sup> #606	KobVI
Sam P. Wilson	" " "	"
Mary Adams	114-S-Buchanan	Topeka <sup>Impaired for service</sup> Ass. for Visually
Michael Byington	706 Buchanan, Topeka	Kansas Assn for the Blind and Visually Impaired Inc
Robert Tabor	2509 W. 10th, Topeka	KARVI " Inc
Shari Tabor	2509 W. 10th, Topeka	Seeing eye dogs
Steve Abraham	Topeka	Associated Press
Frances Tully	RR 3 Junction City	Chapman High School
Sandy Beech	Carlton, KS	Chapman High School
Teresa Langvardt	Chapman, KS	Chapman High School
JANE SPARKS	Junction City	Chapman High school
Ellen Hawk's	Chapman, KS	Chapman High School
Greg Clark	Chapman KS	Chapman High School
Leif Cuman	Abilene KS	C.H.S
Masinee Whitlow	Junction City, KS	Chapman High School
Maria Alvarado	Abilene, KS	Chapman High
Casen Brown	Enterprise	Chapman High
Michael Link	Chapman	City of So

Attachment 1





HOUSE BILL 2254

by Gene Johnson

Mr Chairman and members of the Committee, my name is Gene Johnson. I represent the Kansas Community Alcohol Safety Action Project Coordinators, an organization of 23 different ASAPs and court referral agencies throughout the state. I am also coordinator of the Sunflower Alcohol Safety Action Project located in Shawnee County, Kansas. I have been involved with the Alcohol Safety Action Projects for the past nine years and have personally supervised approximately 5,000 pre-sentence evaluations and court recommendations to the court concerning the D.W.I. offender. In the 1982 Legislature the State of Kansas made a great step forward in reducing the number of alcohol related fatalities and injuries by the adoption of Senate Bill 699. Basically that bill provides minimums that the courts may sentence a D.W.I. offender to, eliminates plea bargaining and provides jail terms for those who violate our D.W.I. statutes. In addition, for that social drinker, or first time caught offender, there is a possibility that they can qualify for the Diversion Program. This would eliminate the 48 hours mandatory jail sentence for those persons who qualify for the Diversion Program.

We feel that the minimum sentences that are included in this legislation will deter those people from drinking and driving.

Any watering down of this legislation at this point would be detrimental to the fine legislation as passed in your last session. I have found in the past that it is hard to deal with that chronic D.W.I. offender when he knows that the court system may order him to treatment but will not force him to stay there if he so chooses to leave. We must have a legislation that will make it very plain to these offenders that we mean business. If that offender is in need of treatment and is ordered by the court to complete an in-patient hospital treatment, it is his obligation to do so satisfactorily, as ordered by the court. If that offender fails to fulfill his obligation and complete the treatment program, then it is the court's duty to return that offender to his original sentence of jail confinement.

House Bill 2254, under new section 0, addresses the need for in-patient treatment for those offenders who have been adequately diagnosed as problem drinkers or alcoholics. However, on Line 210 through 211, the statement of "the court may stay the effective date of a sentence imposed under this section for good cause" leaves me a little skeptical of the full meaning. Would it be the legislative intent that any judge in the State of Kansas could stay indefinitely the effective date of the sentence for good cause. The phrase "good cause", does it mean the public safety of our citizens or does it mean the singular desires of the defendant or does it mean that we have a judge that does not

Attachment 2

believe in placing D.W.I. offenders into jail confinement. We could be in support of this bill entirely if that sentence was stricken or cleared up in the manner that "good cause" has only to do with in-patient hospital treatment for alcoholism or drug abuse. One other suggestion is that the following sentence may be modified after the phrase "against the sentence imposed" by adding "after a minimum jail sentence is incurred".

We believe in the treatment of those offenders who have broken our State laws. However, the threat of serious penalties, such as jail sentences, must exist in order to get the attention of the drinking driver.

Thank You.

To: House Committee on Transportation  
From: Dr. Lorne A. Phillips, Commissioner  
SRS/Alcohol and Drug Abuse Services  
Date: Wednesday, February 16, 1983  
RE: HB 2254

House Bill 2254 will give judges more discretion in allowing offenders to attend alcohol or drug treatment for their problems rather than just incarceration.

I know that the writer of this bill did not intend this, but this bill could imply that attending a treatment program is punishment for driving under the influence, rather than a therapeutic intervention for the alcohol or drug problem of the offender.

Under the provisions of this bill, a person convicted of a first offense could spend two days in a treatment program and not have to spend any time in jail. We all know that two days in treatment will not do any good for the offender nor will it help the treatment programs in Kansas to have 48 hour clients.

If this bill does pass favorably out of this committee, I suggest that the language "inpatient hospital treatment for alcoholism or drug use"(line 212) be changed to read "completing an inpatient or intermediate program for alcohol or drug abuse licensed or certified by the secretary of social and rehabilitation services". This will allow persons to attend either a medical or a non-medical model treatment program.

A further problem with this language is that it eliminates an important and major environment in the continuum of treatment: Outpatient services. It is our understanding that many of these offenders could be treated in their own community, without losing any work and being the least disruptive to their families, if treated in an outpatient setting. I urge you to try to insert outpatient treatment into this bill, as it would be a great service to the offenders.

If the above changes are incorporated, I support your passage of this bill.

if, at the time and place of the alleged violation, an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that official traffic-control devices are required, such section shall be effective even though no devices are erected or in place.

(c) Whenever official traffic-control devices are placed in position approximately conforming to the requirements of this act, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

(d) Any official traffic-control device placed pursuant to the provisions of this act and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this act, unless the contrary shall be established by competent evidence.

**History:** L. 1974, ch. 33, § 8-1507; July 1.

**Source or prior law:**  
8-513.

**Research and Practice Aids:**  
Uniform Vehicle Code, § 11-201.  
Automobiles 151.  
C.J.S. Motor Vehicles § 288.

**8-1508. Traffic-control signal legend.** Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend, and said lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(a) *Green indication.* (1) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left, unless a sign at such place prohibits either such turn; but vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(2) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may enter the intersection cautiously only to make the movement indicated by such arrow, or such other

movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(3) Unless otherwise directed by a pedestrian-control signal, as provided in K.S.A. 8-1509, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(b) *Steady yellow indication.* (1) Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.

(2) Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian-control signal as provided in K.S.A. 8-1509, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown, and no pedestrian shall then start to cross the roadway.

(c) *Steady red indication.* (1) Vehicular traffic facing a steady red signal alone shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection, and shall remain standing until an indication to proceed is shown, except as provided in paragraph (2) of this subsection.

(2) Unless a sign is in place prohibiting a turn, vehicular traffic facing a steady red signal may cautiously enter the intersection to make a right turn after stopping as required by paragraph (1) of this subsection. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(3) Unless otherwise directed by a pedestrian-control signal as provided in K.S.A. 8-1509, pedestrians facing a steady red signal alone shall not enter the roadway.

(d) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pave-



# Kansas Association for the Blind and Visually Impaired, Inc.

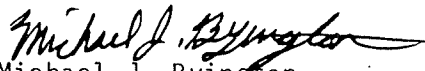
February 16, 1983

Transportation Committee  
Kansas House of Representatives  
Capitol Building  
Topeka, Kansas 66612

Committee Members:

The action requested of you in the attached document would require the amending of K.S.A. 8-1508. We request language prohibiting right turns at a red light.

The Kansas Association for the Visually Impaired, an advocacy organization active in Kansas for over 60 years, has the support of the Kansas Council of Disabled Persons concerning this issue. I have been authorized to represent both groups in reference to it.

  
Michael J. Byington,  
KABVI Lobby and  
Member of the Board of Directors,  
Kansas Council of Disabled Persons

*Attachment 5*

# Kansas Association for the Blind and Visually Impaired, Inc.

February 16, 1983

TO: Transportation Committee, Kansas House of Representatives

FROM: Legislative Committee: Mary Adams, Chairperson  
Michael J. Byington, Lobby  
Susan Tabor, Member  
Ardonna L. Pohl, Advisor  
William Lewis, Advisor  
Sam Wilson, Advisor

RE: Reasons for repeal of right turn on red

What we are asking of this Committee is quite simple. We request the introduction of legislation which would again make it illegal for a motorist to make a right turn on a red light.

When right turn on red became law, one of the justifications was that energy would be saved. Fuel, it was contended, would not be spent needlessly by autos sitting still at red lights while waiting to make a right turn. In practice, however, this line of reasoning is to say the least questionable due to the functioning of human behavior. Most drivers, when entering an intersection with the intent to turn right during a green light initiate their turn slowly and then exccelerate gradually. The same drivers, however, when intending to turn right at an intersection where the light is red initiate the following behavior. They stop, but then must pull up into the crosswalk area to see around the corner. As soon as they see just enough room to squeeze into traffic, they exccelerate with gusto in order to take advantage of the short opportunity. This sudden excceleration is a fuel wasting move, not one which is going to save fuel over a short idling time. Even if the energy saving arguement were valid, however, the Kansas Association for the Blind and Visually Impaired feels that prevention of human suffering and potential loss of life is more important.

Right turn on red makes pedestrians second class citizens. It gives them no time which is strictly theirs to cross the street. Certainly, it increases the pedestrian danger factor. This danger is compounded to an even greater degree if the pedestrian involved happens to be blind, orthopedically handicapped, or elderly.

A totally blind person, or a person too visually impaired to see the color of a traffic light, for example, must judge when it is safe to cross the street by listening to the traffic flow. Right turn on red makes this judgement much more difficult and increases the potential for the impaired pedestrian to make a painful, or perhaps fatal mistake.

Individuals who are elderly or orthopedically handicapped usually move more slowly then most of us. They must be in the traffic danger zone longer in order to get across the street. Right turn on red makes this danger zone twice as potentially hazardous as it otherwise would be.

Statistics prove that right turn on red does ause accidents. A few examples will here be given.

Post Office Box 292 / Topeka, Kansas 66601

According to the Topeka Police Department, eleven (11) auto accidents occurred in Topeka during 1982 where a right turn was being made on a red light. Fortunately, none of these involved pedestrians, but in other previous years after the passage of right turn on red, there have been as many as six (6) pedestrian accidents caused by right turn on red in the Topeka city limits.

The Wichita Police Department informed us that it does not break its traffic statistics down so specifically that it can offer the exact number of accidents caused by right turn on red. In Wichita last year, however, 26 pedestrians were injured in accidents found to have been caused due to mistakes made by a motorist. This number of injuries certainly suggests that it is not safe out there for pedestrians. The Kansas Legislature should certainly feel the moral obligation to do everything in its power to try and improve pedestrian safety. Repeal of right turn on red would certainly be a significant step. It should perhaps also be pointed out that 100 additional pedestrian injuries occurred last year in Wichita where the fault was blamed on the pedestrian. Certainly, pedestrians, like motorists, are not perfect. According to the Wichita statistics, one of the most major causes for these pedestrian fault accidents was jay-walking, and there is certainly no excuse for this behavior. Another leading cause of the pedestrian fault accident, however, was the pedestrian being in the intersection at a time when the traffic light was the wrong color. This implies, in at least some cases, a need for more pedestrian time in the intersection to be available. Right turn on red definitely decreases the potential pedestrian time. If a pedestrian approaches an intersection during a time at which a motorist is turning right on red, the pedestrian must wait until the turn is completed before starting the crossing.

Kansas City, Kansas, like Wichita, could not give us specific statistics. We have, however, perhaps the most compelling type of information from that community. Mr. Sam Wilson, who is a blind retired civil service employee, and who is an Advisor to the KAEVI Legislative Committee, was hit and injured in Kansas City, Kansas due to a motorist making a right turn on a red light. Mr. Wilson was crossing the street legally at the time; he was, in fact, with his wife who is sighted and who was also injured in the accident.

Statistics have not been kept in most of the smaller communities in Kansas, but we suggest that any intersection where traffic is controlled by a red, yellow, and green lighting system is an intersection where right turn on red should not be permitted. The prevention of human suffering and loss of human life should be the primary consideration.

Thank you for your consideration of these matters.