

MINUTES OF THE House COMMITTEE ON Transportation

The meeting was called to order by Representative Rex Crowell at
Chairperson

1:30 ~~am~~/p.m. on March 21, 1984n room 519-S of the Capitol.

All members were present except: Representatives Dempsey, Moomaw, Cloud and Adam - All
Excused

Committee staff present:

Fred Carman, Office of the Revisor of Statutes
Hank Avila, Legislative Research Department
Donna Mulligan, Committee Secretary

Conferees appearing before the committee:

Mr. Jim Waugh, Judicial Council
Ms. Norma Doty, Clerk of the District Court, Wabaunsee County
Major Charles Wickham, Kansas Highway Patrol
Mr. Chris McKinzie, Kansas League of Municipalities
Mr. John Smith, Department of Revenue

Chairman Rex Crowell called the meeting to order and the first order of business was a hearing on SB-490. Mr. Fred Carman briefed the committee on the bill, explaining it was the subject of an interim legislative study in 1983 and previous to that there had been a study conducted by the Judicial Council. Mr. Carman related that the bill basically separates the important traffic violations from the less important traffic violations, and treats them differently.

Mr. Jim Waugh of the Judicial Council, testified in favor of SB-490. He explained that the purpose of SB-490 is to speed up the handling of the bulk of traffic offenses.

The meeting was opened to questioning by the committee, and Representative Knopp queried Mr. Waugh concerning instances when an out of state driver receives a ticket. Mr. Waugh replied that he would receive a citation and no bond would be required.

Ms. Norma Doty, Clerk of the District Court of Wabaunsee County, testified favorably concerning SB-490. She discussed procedures involved in the collection of traffic tickets, and requested that the committee support SB-490.

Major Charles Wickham of the Kansas Highway Patrol testified favorably on SB-490. (See Attachment 1) Major Wickham stated the major benefit of this legislation would be the lower class of offense for the majority of traffic violations and standardization of the attendant fines regardless of the jurisdiction involved. He added that an additional benefit would be the convenience with which the violator could settle the issue through the use of the mail. Major Wickham recommended increasing the amount of fines in instances involving hazardous violations.

Mr. Chris McKinzie, Kansas League of Municipalities, was introduced and presented favorable testimony on SB-490. Mr. McKinzie reported that the League participated this past interim session in the hearings held on SB-490. Mr. McKinzie advised that the League supports SB-490, however, he suggested amendments which they feel would improve the measure further. (See Attachment 2)

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,
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Mr. John Smith of the Department of Revenue testified on SB-490 and told the committee the Department agrees with the requirement of signing tickets since many times non-residents claim they did not receive the ticket.

The next order of business was committee discussion and action on SB-745 concerning qualifications for appointment as a trooper with the Highway Patrol in Kansas. It was moved by Representative Justice to pass favorably SB-745 and place it on the consent calendar. The motion was seconded by Representative Erne. Motion passed.

The meeting was adjourned at 2:45 p.m.


Rex Crowell, Chairman

SUMMARY OF TESTIMONY

BEFORE THE HOUSE COMMITTEE ON TRANSPORTATION
MARCH 21, 1984

KANSAS HIGHWAY PATROL
(Major Charles Wickham)

SENATE BILL 490

OVERVIEW

The Patrol supports the concept in SB 490 and testified to that effect during last session (HB 2163) and before the interim committee (Proposal #42).

The major benefit of this legislation would be the lower class of crime for the majority of traffic offenses and standardization of the attendant fines regardless of the involved jurisdiction.

An additional benefit would be the convenience with which the violator could settle the issue through the use of the mail.

CONSIDERATIONS

We respectfully submit as we have previously the following consideration which can be accomplished without affecting the meaning or intent of this legislation.

- Increase the fine amount in those instances involving moving hazardous violations. The present indicated fine of \$11.00 would have little deterrent effect. This \$11.00 was an arbitrary amount offered by the Traffic Offense Adjudication Task Force as a beginning point for legislative consideration.

The two remaining considerations previously mentioned in testimony have been corrected.

Att 1



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

TO: House Transportation Committee
FROM: Chris McKenzie, Attorney/Director of Research *CM*
DATE: March 21, 1984
SUBJECT: Statement on SB 490

The League participated this past interim session in the hearings held by the Special Committee on Transportation concerning SB 490. At that time, we raised a number of concerns regarding the impact creation of the new traffic offense category of "traffic infraction" might have on the operation of municipal courts in Kansas. We appreciate the fact that the Special Committee addressed many of those concerns in SB 490, including the addition of subsection (d) of Section 1 which retains local discretion in setting traffic fines according to the procedure currently required by the code of procedure for municipal courts. The bill also contains some important amendments to the code of procedure for municipal courts that ensure compatibility between the treatment of individuals who commit traffic infractions by both state and local law enforcement officials and courts. Due to these factors, the League's Convention of Voting Delegates adopted at its annual convention a policy position in support of the measures embodied in SB 490.

While the League formally supports SB 490, we would like to offer some suggested amendments at this time that we believe will improve the measure still further. These are:

1. In Section 25, lines 363-364, elimination of the exception for illegal parking, standing or stopping gives the impression that the failure to comply with a traffic citation for such offenses is to be communicated to the Division of Vehicles. We do not believe it was the intent of the Judicial Council to require that the failure to comply with local parking laws be reported to the Division of Vehicles. If so, the Division would be literally inundated with reports of this nature.
2. Sections 28 and 29 of the bill (page 35) contain amendments to two sections of the municipal court procedure act dealing with the question of traffic infractions and the arrest powers of police officers. Basically, these sections prohibit the issuance of a warrant for the arrest or the actual arrest of an individual who has violated an ordinance traffic infraction unless the person charged has received service of a notice to appear and has failed to appear for the infraction. We recommend two changes in these sections. First, we suggest the amendment of these sections to allow the issuance of a warrant for the arrest of an individual and the actual arrest of that person who is charged with committing an ordinance traffic infraction if the individual refuses to sign the notice to appear. This particular change would be very helpful in cities near the state line because individuals typically could refuse to sign notices to appear, return to their home state and after failing to appear would not be subject to arrest unless they re-entered the state and were stopped in the future for an additional infraction or other offense.

AH. 2

Second, we respectfully suggest that the language in lines 452 and 477 reading "has received service" be changed to "has been served". This particular change is suggested because it is unclear exactly what receipt of service actually means. For instance, if the person refuses to accept the notice to appear, it is unclear whether the individual "has received service".

Third, we would suggest adding a definition of the term "service" after both Sections 28 and 29 which reads as follows: "Service" within the meaning of this section may be proven by testimony of the officer serving the notice to appear or a certificate by the clerk of the municipal court that the notice to appear was mailed to the last known address of the registered owner of the vehicle operated during the commission of an ordinance traffic infraction.

Finally, I would note that the language contained in lines 468-469 of Section 29 of SB 490 was included at the request of the League. Current language of K.S.A. 12-4212 allows the arrest of an individual without warrant when the police officer has probable cause to believe the person is committing or has committed an ordinance violation or the person has committed or is committing the violation in front of the officer, and the person is "unable to identify himself or herself to the reasonable satisfaction of the law enforcement officer." We ask that this language be changed to that that is currently in the bill because of the May 1983 decision by the U.S. Supreme Court in Kolender v. Lawson, 77 L.Ed.2d 903, in which the Court invalidated a similar provision of California state law as being unconstitutionally vague on its face. We believe the current language in lines 468-469 would survive a similar constitutional challenge.

Thank you.

CM:gs