

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by SENATOR ROBERT V. TALKINGTON at
Chairperson

9:00 a.m./p.m. on Wednesday, January 25, 1984 in room 254--E of the Capitol.

All members were present except:

Senator Hein

Committee staff present:

Fred Carman, Hank Avila, Rosalie Black

Conferees appearing before the committee:

Tom Hatten, Dept. of Revenue; John Smith, Dept. of Revenue;
Capt. Donald Pickert, KS Highway Patrol; Marjorie Van Buren, Office of Judicial Admin.;
Norma Doty, Clerk of Court, Wabaunsee County; Chris McKenzie, League of Kansas
Municipalities; Jim Waugh, Attorney, Chairman of Traffic Law Advisory Committee;
Mary Turkington, Kansas Motor Carriers Association

The meeting was called to order by Senator Talkington, Chairman, who introduced Mary Turkington, Kansas Motor Carriers Association, to present information on a wrecker service proposal.

PROPOSAL - Wrecker Tow Truck Service

Mary Turkington indicated that problems within the towing truck industry necessitate the need for additional statutes.

Senator Burke moved to introduce the tow truck proposal into Committee; seconded by Senator Norvell. The Committee voted favorably for introduction.

SENATE BILL No. 490 - Hearing

Jim Waugh explained that the key function of Senate Bill 490 is to provide authority for traffic fines to be paid by mail since the judicial council discovered that in many counties traffic offenses are currently being handled by a pay by mail system.

Tom Hatten said the Department of Revenue recommends deletion of the section in the new bill that would require parking tickets of drivers failing to appear to be sent into the Department.

Referring to the same problem as Mr. Hatten, John Smith added that the space

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,
room 254-E, Statehouse, at 9:00 a.m./p.m. on January 25, 1984.

SENATE BILL 490 - Hearing - (con't)

needed to file parking tickets and the follow up of suspension proceedings could fill the entire state office building.

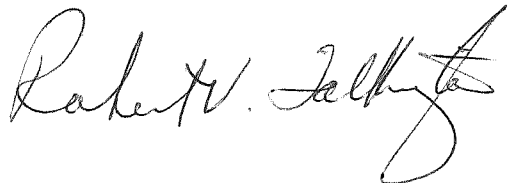
Capt. Donald Pickert testified that the Patrol's involvement in the traffic infraction concept dates to the formation of the traffic advisory committee and the Patrol continues to support the measure as it did when representatives testified before the interim committee. (See Attachment 1.)

Marjorie Van Buren introduced Norma Doty who stated that many clerks of courts favor SB 490 because it would allow suspension of drivers' licenses instead of the present serving of warrants which sheriffs' offices find time consuming.

The Committee received a letter from John B. Kemp, Secretary of Transportation, recommending support of SB 490. (See Attachment 2.)

Offering several amendments to the bill, Chris McKenzie indicated that the League requests that cities be allowed to set the amount of their own fines. Senator Talkington pointed out that ordinances will set the limits of fines and the judge would have the discretion to set fines but could not go above or below the limits. (See the League's Attachment 3.)

The meeting adjourned at 10:00 a.m.



Please PRINT Name, Address, the organization you represent, and the Number of the Bill in which you are interested. Thank you.

1-25-84

SB 490

NAME	ADDRESS	ORGANIZATION	BILL NO.
Zed Brehm	Topeka	Topeka Police	490
Lee Sipes	Topeka	Topeka Police	490
Ed MULLINS	"	BUDGET	490
Jo Ellen McGranahan	"	AAA Auto Club of Kansas	490
Capt Don Robert		Ks. Hwy. Patrol	490
EDWARD R. DE SOIGNIE		KDOT	490
Mary Tinsington		Kansas Motor Carriers Assn.	Towing & Recovery Dept
Tom WHITAKER		KANSAS MOTOR CARRIERS ASSN	Towing & Recovery Dept
Tom Hatten		Dept of REU	490
Norma J. Doty		Clerk of District Court - Lab. Co.	490
Margaret J. Van Buren		Office of Judicial Admin	490
James O. Keenan		Judicial Council	490
Matt Lynch		"	490
Chris McKenzie		League of Ks. Municipalities	490

SUMMARY OF TESTIMONY
BEFORE THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES
1984 Legislative Session

Senate Bill 490

January 25, 1984

Presented by the Kansas Highway Patrol
(Captain Don Pickert)

Appeared in Support of Senate Bill 490

Patrol involvement in the traffic infraction concept dates to when the traffic advisory committee was formed to study the situation.

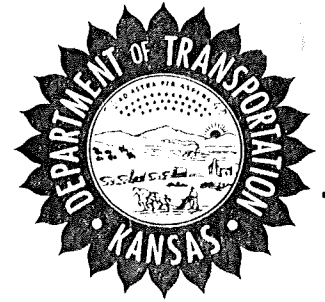
We were represented throughout the meetings and additionally, were successful in obtaining several minor amendments to the bill while before the House Judiciary Committee in the 1983 session.

— The Patrol also testified before the interim committee in support of the measure and that support continues.

We would respectfully request your favorable consideration of the bill and will attempt to answer any questions you may have in this regard.

KANSAS DEPARTMENT OF TRANSPORTATION

STATE OFFICE BUILDING—TOPEKA, KANSAS 66612



JOHN B. KEMP, Secretary of Transportation

JOHN CARLIN, Governor

January 25, 1984

MEMORANDUM TO: Senate Committee on Transportation and Utilities
FROM: John B. Kemp, Secretary of Transportation
REGARDING: Senate Bill 490 - Changes to the Uniform Traffic Code

While serving on a subcommittee of the Governor's Cabinet which was reviewing traffic regulations, I reviewed a Law Enforcement Assistance Administration policy brief entitled "Administrative Adjudication of Traffic Offenses," issued in February of 1980. The brief concluded that the case backlogs which occur in many court systems could be significantly reduced by changing routine traffic offenses, such as speeding, disobeying traffic signals, etc., from misdemeanors to "traffic infractions."

This could permit more efficient use of court employee and law enforcement officer time, be a convenience to motorists by permitting self-arraignment by mail, and do away with our present parallel procedure for suspending or revoking drivers licenses. Changing moving violations from misdemeanors into "traffic infractions" would permit a lower standard of proof and somewhat discourage plea-bargaining.

I recommend that the Judicial Council consider traffic law reform as an early agenda item. I feel that our criminal justice system would benefit, gaining widespread public approval for its effectiveness and efficiency in handling traffic cases.

I lend my support to the Judicial Council's efforts in this area and urge the committee to give this matter its full consideration.



League of Kansas Municipalities

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

TO: Senate Transportation Committee
FROM: League of Kansas Municipalities
DATE: January 25, 1984
SUBJECT: Testimony Re: Senate Bill 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 has gone on record formally supporting 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. We recommend deletion of subsections (e) and (f) of Section 30 (page 36) which contains amendments to K.S.A. 12-4305. This section prohibits municipal courts from treating reckless driving, driving while under the influence, and other serious offenses as ordinance traffic violations. In other words, a mandatory court appearance is required for these offenses.

We recommend removal of subsection (e) since speeding violations are treated as traffic infractions in Section 1. Subsection (f) is recommended for removal for the practical reason that the Department of Revenue has advised us that information on multiple moving violations is rarely available to the court when such matters come up for consideration.

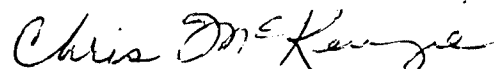
2. Section 29 (page 35) contains an amendment to K.S.A. 12-4212, a section of the code of procedure for municipal courts, which prohibits the arrest of a person who is charged only with the violation of a traffic infraction. Section 37 (p. 44) contains a companion amendment to K.S.A. 22-2401 concerning the arrest powers of law enforcement officers for violations of state law. We believe certain provisions of Section 29 deserve additional attention at this time. Specifically, subsection (a)(3) empowers law enforcement officers to arrest, without warrant, a person whom the officer has probable cause to believe is committing or has committed an ordinance violation, or who has committed or is committing the violation in front of the officer, and a number of alternative conditions are met. One of these conditions poses potential problems.

Subsection (B) (line 457) allows an arrest if a person "is unable to provide identification of self to the reasonable satisfaction of the law enforcement officer." Our concern about this language stems from the May 2, 1983 decision by the U.S. Supreme Court in Kolender v. Lawson, 77 L. Ed.2d 903, invalidating a similar provision of California state law as unconstitutionally vague on its face. The California law in that case required a person stopped by a law enforcement officer to provide "credible and reliable identification" of themselves when requested by a police officer. The Court simply stated in its 7-2 opinion that such a law violates the due process clause of the 14th Amendment because it encouraged arbitrary enforcement by failing to clarify what is "credible and reliable identification."

We respectfully suggest more specific language that would apprise an individual of the type of identification required, i.e., identification by a driver's license or other proof of the person's identity which provides substantially the same information.

Thank you.

Sincerely,



Chris McKenzie
Attorney/Director of Research