

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRSThe meeting was called to order by Representative Robert H. Miller at  
Chairperson1:30 a.m./p.m. on February 27, 1985 in room 526S of the Capitol.

All members were present except:

Committee staff present:

Lynda Hutfles, Secretary  
Mary Torrence, Revisor's Office  
Russ Mills, Research

Conferees appearing before the committee:

The meeting was called to order by Chairman Miller.

Packets were given to committee members who were gone on Monday and Tuesday containing subcommittee reports and recommendations.

Attention was called to the agenda for the week of March 4. Meetings will be held in the Old Supreme Court Room (Rm.313S) on Monday and Tuesday with staff presentation and background on liquor by the drink on Monday and public hearings on Tuesday.

Representative Peterson made a motion, seconded by Representative VanCrum, to approve the minutes of the February 26 meeting. The motion carried.SBl26 - Suspension or revocation of minor's driver's license for alcoholic beverage violationsRepresentative Barr made a motion, seconded by Representative Goosen, to adopt the subcommittee amendments to SBl26. The motion carried.

Representative Barr made a motion, seconded by Representative Gjerstad, to report SBl26 favorable for passage as amended.

There was discussion on New Sec. 2 (d) and whether the penalties were adequate for subsection (b).

There was discussion concerning New Sec. 2, subsection (c) and that it was too broad.

Representative Sallee made a substitute motion, seconded by Representative Charlton, to strike subsection (c) in New Sec. 2. The motion carried.

Representative VanCrum made a motion to increase the penalty in New Sec. 2, subsection (b) from \$25 to \$100 and 40 hours public service. The motion died for lack of a second.

Representative VanCrum made a substitute motion, seconded by Representative Aylward, to table the bill. The motion lost.

Representative Barr's original motion to pass the bill as amended was voted on. The motion carried.SBl28 - Limitations on sales practices relating to alcoholic beveragesRepresentative Long made a motion, seconded by Representative Barr, to adopt the subcommittee amendments. The motion carried.

There was discussion on proportionate pricing and the definition of private function.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS,  
room 526S, Statehouse, at 1:30 a.m./p.m. on February 27, 1985

Representative Roe made a motion, seconded by Representative Eckert, to report SB128 favorable for passage as amended. The motion carried.

SB127 - Restriction of driver's license after 2nd DUI conviction

Representative VanCrum made a motion, seconded by Representative Walker, to adopt the subcommittee amendments ~~(which includes SB129, HB2201, HB2268, HB2298, HB2299, HB2312, and HB2406)~~. The motion carried.

Representative VanCrum made a motion, seconded by Representative Walker, to adopt the attached amendment which corrects the court case (OSABA) cited by Mike Glover in his testimony. See attachment A. The motion carried.

Representative VanCrum made a motion, seconded by Representative Charlton, to amend Subsection (c) on page 4 which would allow employees of a law enforcement agency or qualified person to collect a urine specimen. After much discussion the motion and second were withdrawn.

Representative VanCrum made a motion, seconded by Representative Roenbauth, to insert on page 13, subsection (e) after "five" the word "consecutive".

Representative Peterson stated that this could be a real burden on a lot of people. This could endanger the support maintenance of their family. Some discretion needs to be left to the courts.

Representative VanCrum's motion was voted on. The motion carried.

Representative Brady made a motion, seconded by Representative Roenbaugh, to insert on Page 12, subsection (d) after "48" the word "consecutive". The motion carried.

Representative Peterson made a motion, seconded by Representative Barr, to delete subsection (d) on page 5.

There was discussion on this motion. Some committee members felt this would be an open license for abuse and immunity. Other committee members said law enforcement officers are protected in other ways and this section is not necessary.

Representative Eckert made a substitute motion, seconded by Representative Sallee, to strike the words "or criminal" in subsection (d) on page 5. The motion failed.

Representative Peterson's motion was voted on and the motion failed.

There was discussion on increasing the dollar penalty on page 12. It was decided to let the committee think about what the fines should be and the meeting was adjourned.

GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE: 2-27-85

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
<i>Rafael J. Segura</i>	1049 CENTRAL K.C. Mo	K. M. B. C. T. U. G.
WALTER DARLING	TOPEKA	DIVISION OF BUDGET
SGT BILL JACOBS	TOPEKA	KANSAS HIGHWAY PATROL
Tom HATTEN	"	Dept. of REV.
Gene Johnson	Topoka	Ks ASAP ASSN
Michael Flyzik	Topoka	SRS/ADAS
Jack Green	Melvern	
<i>Lisa Miller</i>	Shawnee	J.C.C.C
<i>W. Hebel</i>	Shawnee	KPRA
<i>H. Hebel</i>	Wichita	KPRA
<i>John (J) Webb</i>	Lawrence	KANSAS PROGRESSIVE LIQUOR DEALERS
<i>Ronald A. May</i>	LACROSSE	DISTRICT COURT JUDGE
Joe Kussner	St. John	" " "
John W Smith	Topoka	Dept of Revenue
BILL EADS	"	"
Kim Duggan	2405 WISCONSIN	KANSAS CAPITAL MADD
Jim Schmitt	KANSAS, 2200 W. 25 <sup>th</sup> , Lawrence	<del>KPRA</del>
John Lamb	Topoka	ABC
Richard Hodson	Lawrence	ABC
Jim BURKE	TOPEKA	ASK.
Frances Kastner	TOPEKA	Ks Food Dealers Assn
Marjorie Van Buren	Topoka	Office of Judicial Administ.
Carl Ratner	Wichita	KRLPA
Michael Totty	Lawrence	UDIC
Denise Euerhart	Topoka	COO. Office

PROPOSED AMENDMENTS TO PAGES 15 and 16

*Address: OSABA*

{g} (h) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.

{h} (i) The court shall report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings or a complaint alleging a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.

{i} (j) For the purpose of determining whether a conviction is a first, second ~~er,~~ third or subsequent conviction in sentencing under this section, ~~the term:~~

(1) "Conviction" includes being convicted of a violation of this section or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section. ~~For such purpose;~~

(2) "conviction" also includes being convicted of a violation of a law of another state or an ordinance of any municipality which prohibits the acts that this section prohibits or entering into a diversion agreement in lieu of further criminal proceedings in a case alleging a violation of such a law

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Attach A

or ordinance. ~~For the purpose of determining whether a conviction is a first, second or third or subsequent conviction in sentencing under this section;~~

(3) only convictions occurring in the immediately preceding five years, including prior to the effective date of this act, shall be taken into account, but the court may consider other prior convictions in determining the sentence to be imposed within the limits provided for a first, second, third or subsequent offender, whichever is applicable; and

(4) it is irrelevant whether an offense occurred before or after conviction for a previous offense.

{j} (k) In addition to any fine or imprisonment imposed under this section and in lieu of any restrictions on or suspension of a driver's license under this section, the judge of any court in which any person is convicted of violating this section or of violating any municipal ordinance which prohibits the acts prohibited by this section may revoke the person's driver's license or privilege to operate a motor vehicle on the public highways of this state. Whenever a license or privilege to operate a motor vehicle is revoked pursuant to this section, the person whose license or privilege has been revoked shall not be entitled to have such license or privilege restored until the expiration of one year from the date of revocation. On conviction of a third or subsequent violation of this section, revocation pursuant to this subsection shall be mandatory for a period set by the court at not less than one year.

{k} (1) Upon suspending or revoking any license pursuant to this section, the court shall require that such license be surrendered to the court. The court shall transmit the license to the division to be retained by the division until further order of the court. Whenever the court restores the privilege to operate a motor vehicle on the public highways of this state to any person whose license was suspended or revoked pursuant to this section, the court shall notify the division, and if the person has successfully completed the examination required by