

Approved \_\_\_\_\_

Date

2/6/85

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Edward F. Reilly, Jr. at  
Chairperson

11:00 a.m./~~XXX~~ on February 5, 1985 in room 254-E of the Capitol.

All members were present except: Senator Walker was excused.

Committee staff present: Arden Ensley, Revisor of Statutes  
Fred Carman, Assistant Revisor of Statutes  
Russell Mills, Legislative Research  
Emalene Correll, Legislative Research  
June Windscheffel, Committee Secretary

Conferees appearing before the committee:

Neal Whitaker, Kansas Beer Wholesalers Association  
John Lamb, Director, Alcoholic Beverage Control

The Chairman asked the Committee to read the Minutes before them. Senator Arasmith moved that the Minutes of the Meeting of January 24, 1985, be approved. 2d by Senator Strick. Motion carried.

The Chairman welcomed Dee Likes of the Kansas Livestock Association and his visiting delegation of about 25 Young Stockmen's Leadership Conference of KLA.

The Chairman said that the Sub-Committee which he had appointed for further hearing of SCR 1606 had met this morning at 7:00 a.m. and will report tomorrow on the action they will recommend concerning SCR 1606.

The Chairman stated that there is a package of proposals before the Committee: SB126, SB127, SB128, SB129. He stated that the Committee had hearings on these proposals and any action would be considered at this time.

SB126 - suspension or revocation of minor's driver's license for alcoholic beverage violations - was considered first. Senator Anderson moved that SB126 be recommended favorably for passage. 2d by Senator Strick.

Senator Strick moved that SB126, lines 41 and 42 be amended to a minimum fine of \$200 and a maximum of \$500. 2d by Senator Anderson. Motion failed.

Senator Morris made the substitute motion that the bill be amended to show a minimum fine of \$100 and a maximum of \$250. 2d by Senator Anderson. Motion carried.

Senator Morris moved that SB126 be reported favorably for passage as amended. 2d by Senator Anderson. Motion carried.

SB127 - restriction of driver's license after 2nd conviction of D.U.I. - was considered next.

Senator Anderson moved that SB127 be reported favorably for passage. 2d by Senator Hoferer. Motion carried.

The Chairman called the Committee's attention to SB128 - limitations on sales practices relating to alcoholic beverages. Senator Martin asked the ABC Director, Mr. Lamb if there were a fiscal note concerning the enforcement of SB128. Mr. Lamb said if there were a large level of compliance initially that it would cost about \$6,000, based upon investigation costs. If there were not a large level of compliance it might take between one or two additional agents. It would run approximately \$34,000 per agent, or a maximum of \$68,000 vs. a minimum of \$6,000. The ABC does not initially police the taverns so that would fall on the local units of government to do.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS,  
room 254-E, Statehouse, at 11:00 a.m./~~p.m.~~ on February 5, 1985.

Following Committee discussion, Senator Anderson moved that SB128 be adversely reported. 2d by Senator Martin. The Chairman then called upon Neal Whitaker to answer questions from the Committee concerning the proposed bill. He referred to a bill which was passed out of House Federal and State Affairs a year ago that addressed two for ones and drink and drown which seemed to answer the concerns of the Committee. Senator Anderson withdrew his motion that SB128 be adversely reported. Senator Martin withdrew his second.

The Chairman asked Staff to come to Committee tomorrow with the House version that Mr. Whitaker referred to from last year to see if this Committee wishes to incorporate it into SB128.

Senator Daniels questioned the use of the word "incapacitated" in SB126. Arden Ensley said there is an Attorney General opinion concerning it which he has not had an opportunity to look at. The opinion was issued at the request of Director John Lamb, of the Alcoholic Beverage Control to define what "incapacitated" meant.

Senator Daniels moved that the Committee reconsider its action to recommend SB126 for passage. 2d by Senator Martin. Motion carried.

Senator Daniels also questioned language in SB127 and requested Staff to research the language.

It was agreed to not discuss SB129 - restriction, suspension or revocation of driver's license as condition of D.U.I. diversion - because of lack of time. Senator Reilly said that he does have a copy of the Attorney General's Opinion which was issued on January 2, 1985, No. 85-1, in which Mr. Jeff Southard believes the opinion reaches the same thing as would be achieved by SB129 but without detailed provisions of the bill. Copies will be given to all Committee Members and a copy of the Opinion is Attachment #1 of these Minutes.

The Chairman distributed a copy of the article, "21 or Else Mandate Angers States," which appeared in State Government News, August 1984, to all Committee members for their information, Attachment #2.

The Committee was adjourned at noon.



Attachment #

2-5-85

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

January 2, 1985

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
ANTITRUST: 296-5299

ATTORNEY GENERAL OPINION NO. 85- 1

John A. Sparks  
Assistant County Attorney  
Pottawatomie County Courthouse  
Westmoreland, Kansas 66549

Re: Automobiles and Other Vehicles -- Serious Traffic  
Offenses--Driving While Under the Influence of Alcohol;  
Diversion Agreements Involving Restriction of Driver's  
License

Synopsis: A county or district attorney may, at his or her  
discretion, offer a person accused of the offense  
of driving while under the influence of alcohol the  
opportunity to enter into a diversion agreement.  
While K.S.A. 1983 Supp. 22-2909 sets forth a number  
of requirements for such an agreement, it specifically  
does not limit the terms of a diversion agreement to  
only those items. Accordingly, a diversion agree-  
ment may impose restrictions on the driving privileges  
of a defendant which may be the same as or similar to  
those imposed by a court under K.S.A. 1983 Supp. 8-1567(c),  
as amended by L. 1984, ch. 39, §9. If a defendant  
accepts such a condition in a diversion agreement,  
his or her license should be forwarded to the division  
of vehicles, as provided in K.S.A. 1983 Supp. 8-1567(1),  
as amended. Cited herein: K.S.A. 1983 Supp. 8-1008;  
K.S.A. 1983 Supp. 8-1567, as amended by L. 1984, ch.  
39, §9; K.S.A. 12-4416; K.S.A. 1983 Supp. 22-2909.

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Dear Mr. Sparks:

As Assistant County Attorney for Pottawatomie County, (you indicate  
you are also the County Attorney-elect), you request our opinion

Attachment 1



on a question concerning diversion agreements under K.S.A. 1983 Supp. 22-2909. Specifically, you inquire whether a county or district attorney may, as a condition for the offering of a diversion agreement to a defendant charged with driving under the influence (DUI) of alcohol, require that the person agree to restrictions on their license to drive. You indicate that the restrictions you contemplate would be similar to those which a district court may impose upon a person convicted of a first offense of DUI under K.S.A. 1983 Supp. 8-1567, as amended by L. 1984, ch. 39, §9.

The statute which regulates diversion agreements made by county and district attorneys, K.S.A. 1983 Supp. 22-2909, provides [at subsection (a)] that any diversion agreement shall include certain provisions, including waiver of specific constitutional rights such as the right to trial by jury, and may also include other requirements such as the payment of restitution, court costs and diversion costs, maintenance of employment and participation in rehabilitative programs.<sup>1</sup> However, this list is not inclusive, for as subsection (a) notes, the diversion agreement "may include, but is not limited to" these particular optional provisions.

Subsection (b) of K.S.A. 1983 Supp. 22-2909 requires the inclusion of certain biographical data which is self-explanatory and need not be further discussed here. Of more interest is subsection (c), which deals specifically with diversions for DUI. Any diversion agreement for such an offense must include: (1) a stipulation of facts regarding the offense and an agreement that, in the event of a violation of the agreement, the stipulation shall constitute the record used in any further proceedings; (2) an agreement to pay the minimum fine, or, in lieu of the fine, perform community service; and (3) enrollment in, and successful completion of, alcohol treatment or education programs of the type set forth in K.S.A. 1983 Supp. 8-1008. Again, however, there is no provision that a diversion agreement for DUI must contain only these elements, only that these elements must be contained.

From the above, it would be our conclusion that, while a county or district attorney is not required to include a provision concerning restriction or suspension of a defendant's license to drive in a diversion agreement, there is no limitation on the discretion to do so. The entire concept of diversion is governed by the premise that it is an alternative to sentencing

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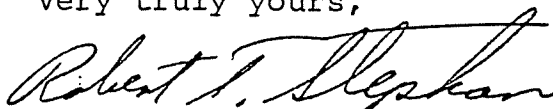
<sup>1</sup>While our discussion will be confined to the diversion authority of county and district attorneys, city attorneys have virtually identical powers under K.S.A. 12-4416.

which is offered at the discretion of the prosecutor. State v. Greenlee, 228 Kan. 712 (1980). Although the legislature has imposed certain limits on the discretion of a county or district attorney through the provision of K.S.A. 1983 Supp. 22-2909, once these "procedural standards" are met, the prosecutor retains discretion as to other provisions which may be included. State v. Greenlee, supra, 228 Kan. at 718.

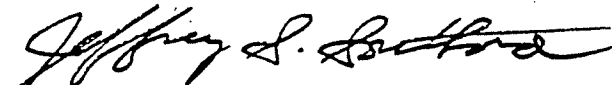
In this regard, a county or district attorney has more discretion concerning the driver's license of a DUI defendant than does a district judge, who is required by the terms of K.S.A. 1983 Supp. 8-1567(c), as amended, to restrict the license of any person who is convicted of a first violation of DUI. The inclusion of similar restrictions in a DUI diversion agreement, or even a provision that a license be suspended [see K.S.A. 8-1567(j), as amended], would not in our opinion constitute an abuse of a prosecutor's discretion. Should the defendant agree to such a provision, the procedure to be followed in obtaining a new, restricted license or in surrendering a suspended license may be taken from K.S.A. 1983 Supp. 8-1567(l), as amended.

In conclusion, a county or district attorney may, at his or her discretion, offer a person accused of the offense of driving while under the influence of alcohol the opportunity to enter into a diversion agreement. While K.S.A. 1983 Supp. 22-2909 sets forth a number of requirements for such an agreement, it specifically does not limit the terms of a diversion agreement to only those items. Accordingly, a diversion agreement may impose restrictions on the driving privileges of a defendant, which may be the same as or similar to those imposed by a court under K.S.A. 1983 Supp. 8-1567(c), as amended by L. 1984, ch. 39, §9. If a defendant accepts such a condition in a diversion agreement, his or her license should be forwarded to the division of vehicles, as provided in K.S.A. 1983 Supp. 8-1567(l), as amended.

Very truly yours,



ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS



Jeffrey S. Southard  
Deputy Attorney General

# 21 or Else Mandate Angers States

By Elaine S. Knapp, editor

**S**tate officials are angry with the congressional ultimatum to raise the drinking age to 21 or lose highway funds. Even supporters of a higher drinking age resent the federal "blackmail." There is talk of opposing the federal mandate and predictions that the heavy federal hand will make it difficult to raise the age in some states.

Still, it is felt that the loss of federal funds will be too great for many states not to act.

The 27 states with lower drinking ages could lose 5 percent of their federal highway funds in fiscal 1986 and 10 percent in fiscal 1987. Withheld funds would be released once a state raised its drinking age, however.

The measure slid quickly through Congress despite protests from state officials over the federal pre-emption of state power. The federal proposal was termed a "drastic pre-emption of state authority" by the chairman of The Council of State Governments (CSG), acting on behalf of CSG's Executive Committee. North Dakota Rep. Roy Hausauer, in a letter to the chief sponsor of the bill in the Senate, wrote that state officials strongly opposed the bill "as a misuse of federal spending power through the grant-in-aid system. In an era in which we expected to see more authority returned to the states, and in which more states are imposing tougher sanctions for drunk driving, federal pre-emption in this area is especially inappropriate."

New York Sen. John J. Marchi, a CSG Executive Committee member, wrote U.S. Senate Majority Leader Howard Baker that although the objective of reducing highway deaths was laudable, the use of "legislative blackmail" was not.

The U.S. Senate, preferring the stick to the carrot, rejected a substitute measure to provide incentives for states that set the drinking age at 21. The majority disregarded the plea of U.S. Sen. Gordon J. Humphrey, R-N.H., who asked, "Where do we stop enlarging the power of the federal government and protect the sovereignty of the states?"

U.S. Sen. Steven D. Symms, R-Idaho, queried, "Do we have the right to force-feed our Washington wisdom down the mouths of our states?" Sen. Symms cited the "contradictory evidence" on the value of raising the drinking age and noted that the worst offenders were age 21 to 24. U.S. Sen. James McClure, R-Idaho, commented that the

Congress believed it was smarter than the 105 state legislators in Idaho who had turned down a higher drinking age in each of the past three years. He warned of the danger in a central government imposing a rule that the "people in my state have said they do not want . . . ."

Also speaking against the proposal on federalism grounds were U.S. Senators Max Baucus, D-Mont., Daniel Evans, R-Wash., and Alan Simpson, R-Wyo. Sen. Baucus noted that the people of Montana had voted down a constitutional amendment to raise the drinking age to 21.

## State Laws

Laws in 23 states provide for a 21-year-old drinking age for all alcoholic beverages. Another eight states and the District of Columbia have combination drinking ages, generally 21 for distilled spirits and 18 to 19 for beer and wine. The drinking age is 20 in four states, 19 in 12 states and 18 in three others.

Many states lowered the drinking age in the 1970s, influenced by a constitutional amendment giving 18-year-olds the right to vote and by the Vietnam War in which 18-year-olds fought and died.

The trend in recent years, spurred by the movement against drunk driving, has been to raise the drinking age. From 1976 to 1983, 21 states raised their drinking ages (to 19, 20 or 21). Four states—Arizona, Nebraska, Rhode Island and Tennessee—passed minimum 21-year-old drinking ages in 1984 sessions. Rhode Island's and Tennessee's laws took effect this year; the rest take effect in 1985. The drinking age was raised to 21 by 1983 sessions in Alaska, Delaware, New Jersey and Oklahoma. A 1982 Maryland law will gradually raise the drinking age until it reaches 21 on July 1, 1985.

The beer and wine drinking age was raised to 19 in South Carolina and South Dakota in 1984 sessions. In 1983, the drinking age was raised to 19 in West Virginia and Wisconsin, to 20 in Connecticut and to 19 for beer and wine in North Carolina and Virginia. New Hampshire in 1983 passed a measure to raise its drinking age to 21 when Maine and Massachusetts did likewise.

In recent sessions, states have also cracked down on youthful drivers who drink. Wisconsin imposed an automatic 90-day driver's license suspension on drivers under 19 with any alcohol in their blood.

*Cont'd pg. 5*

Arizona, Iowa, Kentucky and Maine will revoke the license of underage drivers who drink.

### Quick Federal Passage

The quick passage of the federal bill caught even supporters off guard. The measure moved swiftly through Congress after being attached to a \$5 billion highway bill (H.R. 5504) by U.S. Rep. James J. Howard, D-N.J. Rep. Howard, chairman of the House Public Works and Transportation Committee, a decade ago played a key role in legislation that likewise penalized states unless they passed a 55 mph speed limit.

After the amendment sailed through the House on a voice vote June 7, President Reagan reversed his position and supported the bill. Previously, the administration had argued that the law would be more effectively enforced if states acted voluntarily. However, June 13, Secretary of Transportation Elizabeth Hanford Dole announced administration support for the legislation. She said that state "momentum appears to have stalled," noting that efforts to raise the drinking age to 21 failed in many states this year. According to the U.S. DOT, bills were introduced but failed to pass in 17 states to set a minimum age of 21. Bills are still pending in Louisiana and Massachusetts.

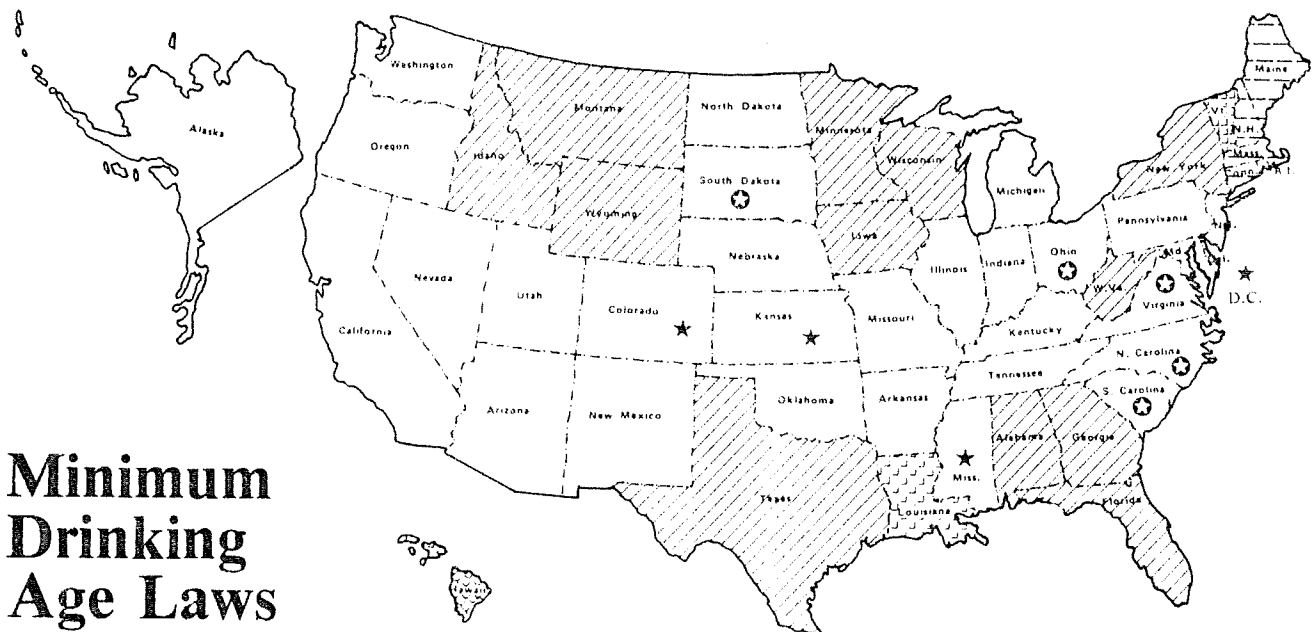
Rather than approve the House-passed highway bill, the Senate passed the drinking age provision as an amendment to a child restraint bill (H.R. 4616).

The measure, sponsored by Sen. Frank R. Lautenberg, D-N.J., passed 81 to 16 on June 26. The Senate added provisions to increase highway safety funds by up to 5 percent for states that enact specified mandatory sentences for drunk drivers. States will be eligible if they mandate a 90-day license suspension and two days in jail or 100 hours of community service on a first offense; a one-year license suspension and 10 days in jail on a second offense; a three-year license suspension and 120 days in jail on third offense, and a 30-day jail sentence for conviction of driving on a suspended, revoked or restricted license. The House gave final congressional approval to the bill June 28.

The criteria for states to qualify for federal incentive grants in the new law is similar to that specified by 1982 legislation ("the Howard-Barnes bill"). H.R. 6170 offered grants totaling \$125 million to states over three years beginning with fiscal 1983. As of July, 15 states qualified for Section 408 grants: Alabama, Alaska, Arizona, Delaware, Indiana, Maine, Mississippi, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Dakota, Rhode Island and Utah. Five of these have drinking ages of under 21.

Withholding of federal highway funds from states without a 21-year-old drinking age and the mandatory sentencing provisions for drunk drivers were among recommendations made by the Presi-

*Cont'd pg. 6*



## Minimum Drinking Age Laws

\*West Virginia—21 for out-of-state residents.

Note: Effective Jan. 1, 1985 in Arizona and Nebraska. South Carolina beer and wine age rises to 20 after Jan. 1, 1985.

	21		19		21 Distilled spirits 18 Beer, wine
	20		18		21 Distilled spirits 19 Beer, wine

dential Commission on Drunk Driving, chaired by John Volpe, in its final report last November. It also urged a comprehensive approach to curbing drunk driving.

A minimum drinking age of 21 was also recommended by the National Transportation Safety Board in July 1982.

These reports, supported by groups such as Mothers Against Drunk Driving (MADD) and Remove Intoxicated Drivers (RID), statistics on teenage drinking-driving accidents, and polls showing public support were cited by House and Senate sponsors of the legislation.

### **Border Crossings**

So-called "blood borders" which teenagers cross to legally buy liquor are a primary target of the federal legislation. Sen. Lautenberg said New Jersey had a problem "known as border-slaughter, because our neighboring state of New York has a lower legal minimum." The presidential commission concluded only a uniform drinking age would solve the problem of teenagers crossing state lines to drink. U.S. Sen. Richard G. Lugar, R-Ind., cited the recent defeat of a "21 bill" by the New York Legislature as evidence "that not all states will act on their own." He declared, "Surely the national interest in protecting the lives of our young people outweighs the states' interest in setting a drinking age lower than 21 years."

The Coalition of Northeast Governors (CONEG) had resolved in December to work for a regional uniform minimum drinking age. The minimum age is 21 in New Jersey, Pennsylvania and Rhode Island, but is 20 in Connecticut, Massachusetts, and New Hampshire, and 19 in New York. A major lobbying effort by New York Gov. Mario Cuomo failed to push through a higher age limit this session, however. A poll of CONEG states in mid-June showed concern with "pre-emption and the withholding of federal monies" under the federal measure.

### **Crossover Sanctions Drastic Remedy**

Both congressional sponsors denied the federal legislation was a mandate to states. Sen. Lautenberg and Rep. Howard called their measures a means "to encourage" states to raise their minimum drinking age to 21. Rep. Howard said his amendment "allows each state to make its own determination on whether to raise the drinking age," and then face the loss of federal funds if it did not. Sen. Lautenberg said it was "the same approach taken to enforce the 55 mph speed limit." Acknowledging the bill was "strong medicine" and that he was reluctant to deny federal aid to states,

Sen. Lautenberg concluded it was necessary to save lives. The parallel with the 55 mph national speed limit was also cited by U.S. Rep. Glenn Anderson, D-Calif., who said the approach was effective because sanctions have not been used yet.

Loss of federal funds in one program for inaction in another area is called a "crossover" sanction. This method was also used to force states to adopt billboard controls as required by the 1965 Highway Beautification Act. However, the DOT did not threaten states with loss of aid until several years after the 1968 deadline for compliance. Only South Dakota lost federal highway funds over the billboard issue.

In contrast, states acted within months after federal legislation passed in 1974 to withhold highway funds from states without 55 mph speed limits. However, enforcement proved a problem and a federal requirement for compliance by 70 percent of drivers was later changed to 50 percent. All states are in compliance and no federal aid has been withheld. However, states resisted the federally mandated speed limit. In 1981, 29 states considered legislation to repeal the limit. Some states responded by imposing fines as low as \$5 for exceeding the 55 mph limit.

Crossover sanctions are viewed as severe remedies and, further, make states angry. Implementation of them can run into political trouble for federal agencies. For instance, Congress took away the power of the National Highway Traffic Safety Administration to withhold aid from states without motorcycle helmet laws.

The possibility of further federal intrusion into state responsibilities was raised by U.S. DOT Secretary Doyle July 11. She said that the choice might be between mandatory state seat belt legislation and a federal requirement for air bags in motor vehicles.

### **State Reactions**

The federal drinking age measure is viewed by state officials as another pre-emption of state authority. However, state officials have mixed feelings. Many agree with the concept of a 21-year-old drinking age or with at least a uniform drinking age. The disagreement is with the federal method to achieve it. The use of federal sanctions is seen as a big federal stick by states. For many, the issue is not the merit of a higher drinking age, but roughshod misuse of federal power.

Estimates prepared by the Department of Transportation show that the 27 states and the District of Columbia with drinking ages below 21 could lose \$203.7 million the first year of sanctions and double that the second year. Immediate reaction from

*Cont'd pg. 7*



some was that states "had no choice" and would have to raise the drinking age to keep from losing millions in federal aid. Others, however, called for state resistance to the federal mandate.

Connecticut, which has a 20-year-old drinking age, but which shares a border with New York where the age is 19, came close this year to tying its age to adjacent states, reported Rep. Timothy J. Moynihan. Rep. Moynihan was CSG chairman in 1983. However, New York left its age at 19 and Rhode Island raised its age to 21. Because it is so easy to travel among the Northeastern states, the different drinking ages are a real problem, Rep. Moynihan noted. He added that Connecticut is unlikely to change its law until New York raises its age.

Although he does not think the federal government should be involved in state issues, Rep. Moynihan noted that sometimes states cannot act on an issue and that the minimum age will "keep border crossings to a minimum." He added that Connecticut probably would not be in violation of the 1986 deadline and that the trend was toward a higher drinking age.

Iowa has turned down a 21-year-old drinking age five times since 1972, noted Speaker Don Avenson. However, the vote was close this past session in the House. The 1984 session did pass a tough drunk driving law, including a provision to revoke the license of drivers under age 19 who drink and drive. The pressure to raise the drinking age has been building, Speaker Avenson said, fueled by statistics of alcohol-related deaths among young drivers. However, the feeling was that persons with the responsibility of adulthood at age 18 ought also to have the privileges of adulthood.

As far as the federal law is concerned, Speaker Avenson said that most legislators were relieved that the political decision was taken out of their hands, but were angry at the federal pre-emption of state powers. "Personally, I am very upset," Speaker Avenson said. "I am tired of federal mandates in areas I believe the constitution reserves to the states." Iowa most likely will pass the 21-year-old drinking age within the next two years, he predicted. Likewise, mandatory seat belts will eventually be required by the state, but similar federal pressure would not help passage, he said. "These pre-emptions can only go on so long before there's a backlash," the speaker concluded.

Ohio Sen. Pres. Harry Meshel is opposed to federal sanctions and called for "states with like minds to join together and challenge this." He said it was time that the federal government quit "putting blackmail hooks" on federal funds. Many states in the Midwest and East are already not

receiving their share of highway trust funds, Sen. Meshel said. He commented that the issue of teenagers crossing borders to drink was not a problem in every state and not a statewide problem in many. Border crossings alone were not good reason for nationwide legislation, he said. In addition, Ohio voters last year soundly defeated a measure to raise the beer drinking age from 19 to 21. Sen. Meshel said that resentment over the federal mandate had been expressed by the governor and legislators. He noted that it would be difficult to raise the drinking age, and that there was not time to review the merit of a higher age. "How many state prerogatives is the federal government going to erode?" Sen. Meshel asked. He urged unity among the states to oppose the federal mandate.

The mood now in Wyoming is not to raise the minimum age, said Rep. Patrick H. Meenan. Saying he was "appalled" by the federal mandate, Rep. Meenan declared that raising the drinking age was not the issue, but the "federal government sticking its nose in state" affairs was. "I was surprised; it seems contrary to everything Reagan said he would do, as far as states' rights," Rep. Meenan said of the federal sanctions.

Wyoming legislators have defeated bills to raise the drinking age from 19 which is also the age of majority there. Other arguments were that a higher drinking age would deny jobs to youth in restaurants and lounges and that it is better to have youth drink in licensed places "than out on the prairie." Neither did Wyoming legislators feel a higher age would reduce highway deaths, because 21- to 24-year-old drivers are more of a problem. Rep. Meenan noted that there was quite a bit of sentiment to raise the drinking age, due to concern over drunk driving. However, the state did further tighten its drunk driving laws. He noted that the U.S. DOT lobbied hard for a higher age in Wyoming and other states, and speculates that the DOT focused its efforts in Congress after states refused to go along with it.

"Everyone talks bravely" now about not going along, but that could change as the loss of federal funds nears, Rep. Meenan acknowledged. Still, he wonders "what would happen if all states told them to jump in the lake."

Georgia House Speaker Thomas B. Murphy called the federal measure a "form of blackmail." He sees the recent action by DOT Secretary Doyle as another move to "blackmail the states into passing mandatory seat belts." Speaker Murphy said, "If Congress cannot accomplish something, it blackmails the states into doing it." Speaker Murphy predicted that most states, including Georgia,

*Cont'd pg. 8*

# Merits of Lower Age Debated

**S**tatistics are cited by both sides in legislative battles over the drinking age. The U.S. DOT estimates that over the last 10 years, 250,000 Americans lost their lives in alcohol-related crashes.

Most dangerous is the time between midnight and 4 a.m. when a majority of fatally injured drivers had been drinking. The average blood alcohol concentration (BAC) of arrested drunk drivers is .20 percent, double the legal limit in most states.

*“In an era in which we expected to see more authority returned to the states, and in which more states are imposing tougher sanctions for drunk driving, federal pre-emption in this area is especially inappropriate.”*

CSG Chairman Rep. Roy Hausauer

The presidential commission, in recommending a drinking age of 21, cited a study indicating that 730 young lives would be saved if all states had a 21-year-old minimum age.

Frequently cited by proponents of raising the legal limit is a 1981 study by the Insurance Institute

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## 21 or Else Cont'd

would raise the drinking age rather than lose millions in highway funds. A bill to raise the drinking age from 19 to 21 in Georgia failed to get out of committee in the 1984 session. “I was opposed to it,” the speaker declared. He noted that 18-year-olds were old enough to fight for their country, inherit and buy property, but “can’t spend 75 cents on a beer.”

In Virginia, where a measure to raise the legal age for beer from 19 failed this session, Gov. Charles S. Robb, a proponent of the higher age, called the federal action coercive. “There are states’ rights issues involved,” Gov. Robb said. An opponent of the higher age, Virginia Sen. Peter K. Babalas, said the state would not “have much choice if we want federal highway funds.”



for Highway Safety. Out of nine states that raised their minimum age, eight showed reductions ranging from 6 to 75 percent in fatal crashes for younger drivers. Only Montana had no net reduction. The study concluded that a state that raises its drinking age can expect a drop of 28 percent in nighttime fatal crashes for the affected age group.

However, those under 21 may not be the worst offenders. Between 40 percent and 55 percent of drivers killed in crashes had BACs of .10 percent or higher in 1981, according to a 1982 report by the National Highway Traffic Safety Administration. The report showed that of fatally injured drivers, 42 percent of those 16 to 19-years-old were legally

*“These pre-emptions can only go on so long before there’s a backlash.”*

Iowa Speaker Don Avenson

drunk, 54 percent of those 20 to 24-years-old were and 59 percent of those 25 to 34 were drunk.

Vermont Gov. Richard Snelling, who has vetoed efforts to raise the drinking age, cited a study in the *New England Journal of Medicine*. It showed that Massachusetts experienced no declines in fatalities attributed to drinking when it increased the drinking age. Gov. Snelling maintained that while states that raised the drinking age have had lower fatalities for a year or two, other states, such as Ver-

Cont'd pg. 10

# MINIMUM AGE FOR SPECIFIED ACTIVITIES

State or other jurisdiction	Age of majority (a)	Minimum age for marriage with consent(b)		Minimum age for making a will	Minimum age for buying		Minimum age for serving on a jury	Minimum age for leaving school(c)	Potential 1987 losses for non-21 states (in millions)
		male	female		liquor	beer or wine			
Alabama	19	14(d)	14(d)	19	19	19	18	16	511.8
Alaska	18	16(e)	16(e)	18	21	21	18	16	...
Arizona	18	16(e)	16(e)	18	19*	19*	18	16	...
Arkansas	18	17(e)	16(e)	18	21	21	18	15	...
California	18	(f)	(f)	18	21	21	18	18	...
Colorado	18	16(e)	16(e)	18	21	18(g)	18	16	9.1
Connecticut	18	16(e)	16(e)	18	20	20	18	16(h,i)	7.5
Delaware	18	18(e,j)	16(e,j)	18	21	21	18	16	...
Florida	18	16(e)	16(e)	18	19	19	18	16	24.2
Georgia	18	16(e,j)	16(e,j)	18	19	19	18	16	17.1
Hawaii	18	16(e)	16(e)	18	18	18	18	18(i)	5.8
Idaho	18	16(e)	16(e)	18(k)	19	19	18	16	4.3
Illinois	18	16(e)	16(e)	18	21	21	18	16	...
Indiana	18	17(e)	17(e)	18	21	21	18	16	...
Iowa	18	16	16	18	19	19	18	16(h,i)	6.1
Kansas	18	(f)	(f)	18	21	18(g)	18	16	5.5
Kentucky	18	(f)	(f)	18	21	21	18	16	...
Louisiana	18	18(e)	16(e)	18(k)	18	18	18	16	14.3
Maine	18	16(e)	16(e)	18	20	20	18	17(i)	2.9
Maryland	18	16(e)	16(e)	18	21	21	18	16	...
Massachusetts	18	(f)	(f)	18	20	20	18	16	9.8
Michigan	18	16	16	18	21	21	18	16	...
Minnesota	18	16(m)	16(m)	18	19	19	18	16	10.5
Mississippi	18	17(e)	15(e)	18	21	18(g)	21	14(n)	5.4
Missouri	18	15(e)	15(e)	18	21	21	21	16	...
Montana	18	18(e)	18(e)	18	19	19	18	16(o)	5.5
Nebraska	19	17	17	18	20*	20*	19	16	...
Nevada	18	16(e)	16(e)	18	21	21	18	17	...
New Hampshire	18	14(m)	13(m)	18	20	20	18	16	2.6
New Jersey	18	16(p)	16(p)	18	21	21	18	16	...
New Mexico	18	16(e)	16(e)	18	21	21	18	18(q)	...
New York	(r)	16	14(m)	18	19	19	18	17(s)	30.1
North Carolina	18	16	16(e)	18	21	19	18	16	9.9
North Dakota	18	16	16	18	21	21	18	16	...
Ohio	18	18(e)	16(e)	18	21	19	18	18	17.8
Oklahoma	18	16(e)	16(e)	18	21	21	18	16	...
Oregon	18	17	17	18	21	21	18	16(t)	...
Pennsylvania	21	16(e)	16(e)	18	21	21	18	16(t)	...
Rhode Island	18	18(e)	16(e)	18	21	21	18	16	...
South Carolina	18	18(e)	14(e)	18	21	19*	18	16	7.6
South Dakota	18	16(e)	16(e)	18	21	19(g)	18	16	4.1
Tennessee	18	16(e)	16(e)	18	21	21	18	16	...
Texas	18	14(m)	14(m)	18(k)	19	19	18	17	33.2
Utah	18	(f)	(f)	18	21	21	18	18	...
Vermont	18	16(e)	16(e)	18	18	18	18	18	2.6
Virginia	18	16(e)	16(e)	18	21	19	18	17	15.5
Washington	18	17(e)	17(e)	18	21	21	18	18(t)	...
West Virginia	18	(u)	(u)	18	19	19	18	16	6.1
Wisconsin	18	16	16	18	19	19	18	16(t)	7.2
Wyoming	19	16(e)	16(e)	19	19	19	19	16	4.5
Dist. of Col.	18	16	16	18	21	18	18	16(i)	2.4

\* Arizona and Nebraska's drinking age rises to 21 effective January 1, 1985; South Carolina to 20 after January 1, 1985.

† Estimates based on 5 percent of funding, U.S. Department of Transportation.

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(a) Generally, the age at which an individual has legal control over own actions and business (e.g. ability to contract) except as otherwise provided by statute. In many states, age of majority is arrived at upon marriage if minimum legal marrying age is lower than prescribed age of majority.

(b) With parental consent. Minimum age for marrying without consent is 18 years in all states, except Mississippi (21 years) and Wyoming (19 years).

(c) Without graduating.

(d) Bond is required if under 18.

(e) Legal procedure for younger persons to obtain license.

(f) Statute provides that any unmarried male or female under 18 may marry with consent (usually with order of court granting permission).

(g) In Colorado, Kansas, Mississippi and South Dakota, 3.2 beer only.

(h) Unless parent or guardian is able to show child is receiving equivalent instruction.

(i) Younger, if lawfully employed. Connecticut, Iowa, District of Columbia, 14 years; Hawaii, 15 years.

(j) Parental consent not required when female is pregnant or applicants are parents of a living child.

(k) Age may be lower for a minor who is living apart from parents or legal guardians and managing own financial affairs, or who has contracted a lawful marriage.

(l) Does not apply to those who have reached age 15 or completed ninth grade, or who otherwise have permission to leave.

(m) Parental consent and judicial consent required.

(n) Mississippi's compulsory attendance statute is being implemented in a staggered fashion (began with 1982-83 school year) until every child who is six years old and has not reached the age of 14 years is covered by the mandatory attendance provision.

(o) Or completion of eighth grade, whichever is earlier.

(p) Parental consent required for ages 16 to 18; judicial approval for individuals under 16.

(q) Does not apply to those who have completed 10th grade and have consent of parents and school officials.

(r) As defined in general obligations (for purposes of contracting and civil rights codes, 18 years).

(s) In cities having over 4,500 population and union-free senior districts.

(t) With certain exceptions.

(u) Under 16, must have parental consent and approval of court judge.

mont, have had even greater reductions in fatalities. He said that tougher law enforcement and public education cause highway fatalities to fall. Gov. Snelling opposes the federal mandate for states to raise their drinking age. Vermont is one of three states with an 18-year-old drinking age.

### **Recent Results**

Most recently, the U.S. DOT cited figures from New Jersey, which raised its legal drinking age from 19 to 21 years in January 1983. There was a reduction of 26 percent in nighttime single vehicle driver fatalities for the 19- and 20-year-old age group.

In states where drinking ages have been raised in recent years, declines in accidents are attributed to comprehensive approaches to drunk driving as well as a higher minimum age. Maryland has seen a "dramatic reduction in highway deaths" of some 25 percent, reported Wayne McDaniel, executive aide to Gov. Harry Hughes. A 1982 law which phased-in over two years a drinking age of 21 might be part of the reason, McDaniel said. He added that Maryland had cracked down on drunk driving in many ways. McDaniel said that despite the state's comprehensive, effective campaign against drunk driving, it probably would not qualify for the new federal incentive grants. He suggested that instead of requiring state legislation, federal incen-

### ***"How many state prerogatives is the federal government going to erode?"***

Ohio Sen. Pres. Harry Meshel

tives should be based on results, including a reduced fatality rate. He added, "That's not the way the (federal) law's written."

A general crackdown on drunk driving as well as a higher drinking age have contributed to a decline in traffic deaths in Oklahoma, according to Delbert Karnes, program manager for Highway Safety. He cited prevention programs with teenagers which emphasize peer pressure.

An Illinois Department of Transportation report credits the raised drinking age with a decline in accidents for drivers 20 and younger. It estimates that 55 deaths and 2,750 non-fatal accidents have been prevented in the three years since the law took effect in January 1980. The drinking age for beer and wine was 19 from October 1973 through December 1979. While overall driver-accident fatalities fell by nearly 14 percent, the reduction was 1.5 times greater for drivers age 20 and under (21.7 percent).

In addition, the 1980 Illinois law required all local governments to follow the 21-year-old minimum. Previously, minimum ages varied among

***"If Congress cannot accomplish something, it blackmails the states into doing it."***

Georgia Speaker Thomas B. Murphy

home rule units. The 1980 law also conformed Illinois' drinking age with neighboring Indiana, Kentucky and Missouri. However, the report noted that the law might "have increased the tendency for the 19- and 20-year-olds to drive from Illinois to Iowa or Wisconsin to legally drink."

### **Pros, Cons**

Opponents of a higher drinking age point out that those old enough to vote, enlist in the armed forces, serve on juries, marry and be legally responsible for their own actions as adults, also should be allowed to drink alcohol.

Opponents also maintain that raising the drinking age will not stop youths from drinking. A nationwide survey found that the same proportion of high school students drank in states where the legal age was 21 as in states where it was lower. Critics also maintain that all young people should not be denied alcohol because a few abuse the right to drink. Another argument is that 21- to 24-year-olds are involved in more drunk driving accidents than the younger age group and that denying alcohol to any age group would cause some reduction in accidents.

Some researchers and others also question the use of accident statistics to make causal connections between drinking and accidents. They maintain that other factors may well account for the crashes.

The major argument raised for a higher minimum drinking age has been that it would reduce highway deaths and accidents. Among other arguments are that it would reduce alcoholism among young people because young legal drinkers obtain alcohol for underage friends and that it would decrease juvenile crime.

Wisconsin raised its drinking age to 19 on July 1. State Superintendent of Public Instruction Herbert J. Grover, in urging the 1983 legislature to act, said that there were "13,000 alcoholics between the ages of 13 and 19 . . . and 67 percent of Wisconsin's 12th grade students will reach the legal drinking age of 18 prior to graduating from high school . . ." He added that while drivers under age 21 comprise 12 percent of the driving population, they account for over 20 percent of the state's drunk driving convictions. Nearly 30 percent of the drivers killed in Wisconsin car crashes who were legally drunk were under the age of 21.