

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

The meeting was called to order by Sen. Neil H. Arasmith at
Chairperson

9:00 a.m. on March 31, 1986 in room 529-S of the Capitol.

All members were present except:

Sen. Burke - Excused

Committee staff present:

Bill Wolff, Legislative Research
Bruce Kinzie, Revisor of Statutes

Conferees appearing before the committee:

Donna Bolek, Mothers Against Drunk Driving
Ruth Meserve, Kansas Coalition for Drug Free Driving
Nancy Bauder, Kansas Women for Highway Safety
Dick Scott, State Farm Insurance
Lee Wright, Farmers Insurance Group
Ron Todd, Kansas Insurance Department

The minutes of March 28 were approved.

The hearing began on HB 2490 dealing with renewal and cancellation of insurance policies with regard to diversion agreements, which had been also heard last year. Those appearing in support of the bill were Donna Bolek, Mothers Against Drunk Driving, (See Attachment I); Ruth Meserve, Kansas Coalition for Drug Free Driving, (See Attachment II); Nancy Bauder, Kansas Women for Highway Safety, (See Attachment III); and Dick Scott of State Farm Insurance. Mr. Scott explained his position on the bill with the aid of a chart. He also explained that the diversion program is confidential and not a conviction, therefore, insurance companies cannot take action. He supports HB 2490 not as an attack on the diversion program but as a feeling that the diversion program is overused and abused. He feels it should be applied on a balance so the non-diversion driver does not pay for the diversion driver. Drivers are classified and charged a rate accordingly by insurance companies which works well as long as people in the groups remain the same; but when people from a bad risk category move into the good, it starts pushing rates up for both groups. Mr. Scott feels this is not fair to ask the low risk driver to pay for the high risk driver. He asked for passage of HB 2490 to put in a balance.

Lee Wright, Farmers Insurance Group, stated his support for HB 2490 for the reasons explained by Mr. Scott.

Sen. Werts had a question regarding persons on a diversion program having their license restricted by the Motor Vehicle Department. John Smith of the Department of Revenue answered saying that there is no restriction, but there is a requirement that it be reported and placed on record to be seen only by law enforcement people or the courts. Sen. Karr asked him what the fiscal impact of the bill would be and if the diversion agreement would be available to anyone under the bill. Mr. Smith felt there would not be much of a fiscal impact and that it would be merely a computer problem. The bill would make the diversion agreement available to insurance companies but not to everyone.

Sen. Kerr wondered if the bill could be changed to keep drunk drivers with a bad record off the highways. Mr. Scott said these people will probably drive without a license or insurance so it is felt that it is better they have insurance for the protection of the public.

Sen. Strick made a motion to report HB 2490 favorable for passage. The chairman reminded the committee that technical updates are needed to be made by staff. Staff distributed copies of the proposed amendment. (See Attachment IV.) Sen. Karr made a motion to approve the amendments to update, Sen. Reilly seconded, and the motion carried.

Sen. Gordon questioned if the bill would cause more people to not want to go into a diversion agreement. The committee could not recall such testimony, and Sen. Werts said that the concept of diversion is not the focal point of this bill. However, Sen. Werts felt it might be appropriate to request an interim study of the diversion concept. Sen.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
room 529-S, Statehouse, at 9:00 a.m./~~pm~~ on March 31, 1986

Gannon asked why diversion was passed in the first place. Mr. Todd of the Insurance Department said it was primarily to make a program for rehabilitation available, and that is why the records are not open. Mr. Smith with the Department of Revenue noted that there has always been diversion, but it has not always been used in connection with drunk drivers.

Sen. Strick made a motion to recommend HB 2490 favorable for passage as amended, Sen. Werts seconded, and the motion carried.

Attention was turned to SB 729 dealing with recording and reporting of loss and expense experience by insurance companies. Ron Todd, Kansas Insurance Department, testified in support of the bill. He said the department has had requests for these statistics from the legislature many times but has not had the information available. The bill would allow the commissioner by regulations to require the collection and reporting to him in any form he would request which he is not allowed to do currently. This is the only way that he can have the statistics available that the department is called upon to produce by the legislature.

A discussion began by Sen. Karr followed regarding the inclusion of "regulations" in the wording of the bill as to if it should be included for the purposes of the bill. Sen. Strick felt that staff and the Insurance Commissioner should get a new bill together. This concluded the hearing. The chairman noted that it had come from Federal and State Affairs Committee and, therefore, is exempt from the time limitation.

The committee's attention was turned to HB 2251 dealing with continuing care agreements which had been previously heard. Staff had prepared the amendment as directed at the hearing (See Attachment V) and briefly explained it.

Sen. Reilly made a motion to adopt the amendment. Sen. Kerr seconded, and the motion carried.

Sen. Gordon made a motion to recommend HB 2251 favorable for passage as amended. Sen. Kerr seconded, and the motion carried.

The final bill to be considered was Substitute for HB 2290 dealing with notice of premium due of a medicare supplement which had been previously heard. Staff had prepared amendments as directed at the hearing which requires notice before cancellation. (See Attachment VI.)

Sen. Werts made a motion to adopt the amendments. Sen. Gordon seconded the motion. The motion failed.

Sen. Strick made a motion to recommend Sub. for HB 2290 favorable for passage, and Sen. Gannon seconded. The voice vote was not clear. The chairman called for a show of hands, and the motion failed.

Sen. Werts made a motion to report Sub. for HB 2290 adversely. There was no second.

The meeting was adjourned.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS
(Please print)

86

DATE	NAME	ADDRESS	REPRESENTING
3-31	Dick Scott	O.P.	State Farm
3-31	Richard Harmon	Topeka	KS Assoc. P/C
3/31	William L. Mitchell	Hutchinson	Alliance Ins. Co's
3/31	Lee WRIGHT	MISSION	FARMERS INS. GROUP
"	Bob Todd	Topeka	INS. Dept.
"	Nancy Barden	Leavenworth	Kansas Women for Highway Safety
"	Ruth McCrewe	Prairie Village, Mo.	Ke Coalition for Drug Free
"	John Grove	Topeka	KS Home for Aging
"	John W. Smith	Topeka	Dept of Revenue
3/31	Glen D. Cogswell	Topeka	Alliance of American Insurers
"	LARRY MAGILL	"	I.I.A.K.

I would like to thank you for allowing me to talk to you today. My name is Donna Bolek. I live in Riley, Kansas. I am president of the Riley County Chapter of Mother's Against Drunk Drivers; I'm chairperson for the Kansas Coalition for Drug Free Driving. I am a mother and a grandmother. I would like to tell you about the circumstances that took me out of my house and brought me here today to talk to you.

I own and operate a small antique shop in Riley and on June 5th, 1984, I had gotten up early. It was a beautiful spring day. I went about my usual business of making a living and at about 5 o'clock my husband said, "Let's go into town to the auction." I said, "O.K." It was a short time later as we were driving into Manhattan to the auction when my husband said, "Look at all the police cars there must have been a wreck." I said, "How could that be when the road is perfectly straight." As we got closer, we saw a pick-up in the middle of the highway. Off to our right, we could see one fender of a car sticking out of the ditch. I looked and my heart stopped! I said, "Oh God! It's our daughters." My husband said, "No it isn't now don't get excited." I was screaming for him to stop and by then he was far enough past the wreck that he could see the license plate and he knew it was our daughters. As he was stopping the car our local police officer ran up to us and said, "Go on to the hospital, both your girls are hurt and it looks pretty bad for Lola." We arrived at the hospital. A few minutes later, a doctor came out and told us there wasn't much hope for Lola, but that they were still working on her. I ask to see her, but they wouldn't let me. Lola died 90 minutes later, in the emergency room of massive injuries.

Lola was young, lively, pretty, happy, friendly and energetic. She was the mother of two young children, Miranda age 14 mos. and Donald age 2 yrs 5 mos. She was 23 yrs. old, but to me that day in the emergency room she wasn't 23 she was 15-10-6-3 or 3 mos. old. She was my baby and I loved her with all my heart. No one should ever have to see a loved one die in this manner.

The man that killed my daughter had six alcohol related convictions. He was driving in excess of 90 miles an hour. He was charged with second degree murder, driving left of center, and had a blood alcohol content of .30+ He was driving on a suspended drivers license. He had

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and friend to obtain a Kansas drivers license and he carried no insurance. They later reduced this charge to involuntary manslaughter. They claimed he was so drunk he was temporarily insane and thus could not show malice.

Our Kansas law reads that voluntary intoxication can not stand as a defense for a crime. I believe that when a person drinks to the point that they have no regard for another human life they are showing malice toward all of us.

I think that it is sad that in a great country like America that these deaths are allowed to occur daily, and I truly think that it is unfair that a portion of our car insurance payments have to go to subsidize the cost of the drunk drivers, guilty of high risk driving, lets put the responsibility where it belongs and make this a further deterrent to the drunk driving problem. So I ask you please vote yes to House Bill 2490.

Thank You

Kansas Coalition for Drug-Free Driving

P.O. Box 195 Riley, KS 66531

913-485-2789

Mr Chairman and Members of the Committee;

My name is Ruth Meserve. I am the lobbyist for the Kansas Coalition for Drug-Free Driving, a statewide coalition of groups working on the drunk driving problem such as local MADD chapters, RID chapters, the Kansas Women for Highway Safety and the Kansas PTA.

As you all know auto insurance rates are based on risk factors. Those drivers who have shown that they do not respect the laws and are more apt to drive dangerously and thus have more accidents are placed in a high risk category. Those in that category pay higher rates to cover their higher risk. If everyone paid equal rates then everyone would be paying more money to cover the high risk driver. It is certainly obvious that it would be unfair for everyone to pay for the behavior of a few dangerous drivers.

Unfortunately, this is exactly what is happening with some drunk drivers. The Kansas Commissioner of Insurance has said that due to the way the law is currently written, it is illegal for first offender drunk drivers who have been placed on diversion to be placed in the high risk driver category by the auto insurance companies. All other drunk drivers can be placed in the high risk category. What this means is that everyone is paying higher insurance rates to cover the potential accidents caused by the drunk drivers placed on diversions.

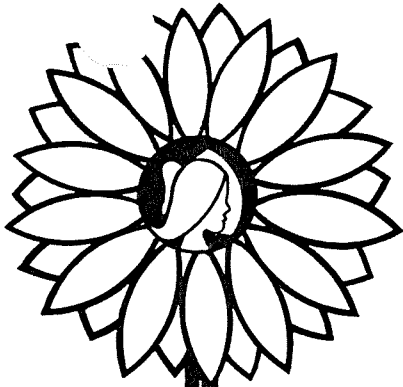
The Kansas Coalition for Drug Free Driving strongly feels that this is very unfair and should be changed. The law abiding citizen should not be expected to pay higher insurance because of these drunk drivers who do not respect the law. Diversion for first offender drunk drivers is already a much lighter sentence than for convicted first offenders who have to spend 48 hours in jail. Those on diversion have no jail, are only required to attend 8 hours education, and have the charge dropped from their record. It is clearly not fair to add to this that the average citizen has to pay for these drunk drivers' higher insurance risk. The Coalition strongly urges you to vote to change this.

Sincerely

Ruth Meserve

Ruth Meserve, Lobbyist

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Attachment II



Kansas Women for Highway Safety

Kansas Department of Transportation
Office of Traffic Safety
State Office Building
Topeka, Kansas 66612

KANSAS WOMEN FOR HIGHWAY SAFETY

Nancy Bauder, President

TESTIMONY FOR: HB 2490

PRESENTED TO: Senate Financial Institutions & Insurance Committee

Kansas Women for Highway Safety is a group of volunteers who promote traffic safety programs throughout the state. We feel strongly that safe, sober drivers should not have to pay for the high-risk driving of those who choose to drive drunk.

Diversion is granted to approximately half of all drunk drivers arrested - that's about 5,000 drunk drivers who are not placed in the high-risk auto insurance category, and therefore escape paying for their high risk driving.

First offenders, whether convicted or placed on diversion, should be responsible for the increased auto insurance rates which result from their irresponsible driving behavior.

It is unfair that all of us then pay for the increased auto insurance costs from diverted drunk drivers.

Please support HB 2490. We urge you to take action on this bill today.
Thank you.

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PROPOSED AMENDMENT TO H.B. NO. 2490

Sec. ²1. K.S.A. 74-2012 is hereby amended to read as follows:
 74-2012. (a) All records of the division of vehicles relating to the physical or mental condition of any person or to expungement shall be confidential. ~~Records--of--the--division--relating--to--diversion--agreements--for--the--purposes--of--K.S.A.--8--1567,--12--4415 and--22--2908,--and--amendments--thereto,--shall--be--confidential--and--shall--be--disclosed--by--direct--computer--access--only--to:--(1)--A--city, county--or--district--attorney,--for--the--purpose--of--determining--a person's--eligibility--for--diversion;--(2)--a--municipal--or--district court,--for--the--purpose--of--using--the--record--in--connection--with--any matter--before--the--court;--or--(3)--a--law--enforcement--agency,--for--the purpose--of--supplying--the--record--to--a--person--authorized--to--obtain it--under--(1)--or--(2).~~

All other records of the division of vehicles shall be subject to the provisions of the open records act except as otherwise provided by this section.

(b) Lists of persons' names and addresses contained in or derived from records of the division of vehicles shall not be sold, given or received for the purposes prohibited by K.S.A. ~~1984~~ 1985 Supp. 21-3914 and amendments thereto except that:

(1) The director of vehicles may provide to a requesting party, and a requesting party may receive, such a list and accompanying information from public records of the division upon written certification that the requesting party shall use the list solely for the purpose of (A) assisting manufacturers of motor vehicles in compiling statistical reports or in notifying owners of vehicles believed to (i) have safety-related defects, (ii) fail to comply with emission standards or (iii) have any defect to be remedied at the expense of the manufacturer; or (B) assisting an insurer authorized to do business in this state, or the insurer's authorized agent, in processing an application for, or renewal or cancellation of, a motor vehicle liability

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insurance policy.

(2) Any law enforcement agency of this state which has access to public records of the division may furnish to a requesting party, and a requesting party may receive, such a list and accompanying information from such records upon written certification that the requesting party shall use the list solely for the purpose of assisting an insurer authorized to do business in this state, or the insurer's authorized agent, in processing an application for, or renewal or cancellation of, a motor vehicle liability insurance policy.

(c) If a law enforcement agency of this state furnishes information to a requesting party pursuant to subsection (b)(2), the law enforcement agency shall charge the fee prescribed by the secretary of revenue and approved by the director of accounts and reports pursuant to subsection (c)(5) of K.S.A. ~~1984~~ 1985 Supp. 45-219 and amendments thereto for any copies furnished and may charge an additional fee to be retained by the law enforcement agency to cover its cost of providing such copies. The fee prescribed pursuant to subsection (c)(5) of K.S.A. ~~1984~~ 1985 Supp. 45-219 and amendments thereto shall be paid monthly to the secretary of revenue.

(d) The secretary of revenue, the secretary's agents or employees, the director of vehicles or the director's agents or employees shall not be liable for damages caused by any negligent or wrongful act or omission of a law enforcement agency in furnishing any information obtained from records of the division of vehicles.

(e) A fee in an amount fixed by the secretary of revenue and approved by the director of accounts and reports pursuant to subsection (c)(5) of K.S.A. ~~1984~~ 1985 Supp. 45-219 and amendments thereto, for each request for information in the public records of the division concerning any vehicle or licensed driver shall be charged by the division, except that the director may charge a lesser fee pursuant to a contract between the secretary of revenue and any person to whom the director is authorized to

furnish information under subsection (b), and such fee shall not be less than the cost of production or reproduction of any information requested.

(f) The secretary of revenue may adopt such rules and regulations as are necessary to implement the provisions of this section.

PROPOSED AMENDMENTS TO H.B. NO. 2251

Section 1. As used in this act:

(a) "Continuing care agreement" means an agreement by a provider to furnish to an individual for the payment of an entrance fee or periodic charges, or both, living accommodations or meals and related services, or both, in a home possibly but not necessarily together with nursing care services, medical services or other health-related services, or any combination of such services, which is effective for the life of the individual or for a period in excess of one year.

(b) "Entrance fee" means the sum of money or other property paid or transferred, or promised to be paid or transferred, in consideration for one or more individuals' becoming a resident or residents of a home pursuant to an agreement for the providing of continuing care by the home.

(c) "Home" means the facility or facilities occupied, or planned to be occupied, by five or more residents where the provider undertakes pursuant to a continuing care agreement to provide continuing care to such residents.

(d) "Provider" means the person, corporation, partnership, association or other legal entity which agrees to provide continuing care to residents in a home.

(e) "Resident" means an individual or individuals who have entered into an agreement with a provider for continuing care at a home.

Sec. 2. (a) A provider shall be required to have an annual certified audit. A copy of such audit shall be made available to any resident upon request by such resident. A provider shall provide to all prospective residents a copy of such audit prior to such prospective resident's entering into a continuing care agreement.

(b) Any provider who fails to comply with subsection (a) shall be fined not more than \$500 upon conviction.

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Attachment IV

Substitute for HOUSE BILL No. 2290

By Committee on Insurance

2-26

0016 AN ACT concerning insurance; relating to notice of premium
0017 due of a medicare supplement policy of insurance; amending
0018 K.S.A. 1985 Supp. 40-19c09 and repealing the existing section.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 New Section 1. Except as otherwise provided in this act, no
0021 medicare supplement policy of insurance, as defined by the
0022 commissioner of insurance by rule and regulation, and no insur-
0023 ance contract insuring a person age 65 or over and providing
0024 benefits for hospital, medical or surgical services or benefits for
0025 accident or sickness other than by reason of the insured's dis-
0026 ability, issued or delivered in this state shall be terminated for
0027 failure to pay premiums when due unless the insurer sends ~~to~~
0028 ~~the insured by certified mail and addressed~~ to the insured's last
0029 address of record with such insurer, a notice indicating the
0030 policy ~~terminated~~ due to failure to pay the required premium ~~as~~
0031 ~~of the premium due date~~. Such notice shall be sent ~~no later than~~
0032 ~~45 days following the date on which premium was due~~, and shall
0033 inform the insured of the amount of premium that would be
0034 required to reinstate the policy and of the time within which
0035 such premium must be remitted to the insurer to effect such
0036 reinstatement. Upon payment of the required premium by the
0037 insured to the insurer within 15 days of the insurer's having
0038 mailed such notice, the policy shall be automatically reinstated
0039 as continuous coverage without lapse by the insurer without
0040 imposing upon the insured any new exclusions, reductions or
0041 waiting periods and without requiring of the insured proof of
0042 insurability.

0043 New Sec. 2. (a) The provisions of this act shall apply to
0044 health maintenance organizations organized under article 32 of



will terminate

The insurer shall place in bold-faced type on the outside envelope containing such notice, sufficient warning, that a premium notice is contained within the envelope.

at least 10 days prior to cancellation of the insured's policy

Attachment VI

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