

MINUTES OF THE House COMMITTEE ON Federal & State Affairs

The meeting was called to order by Representative Robert H. Miller at _____
Chairperson

1:30 a.m./p.m. on March 17, 1987 in room 526S of the Capitol.

All members were present except:

Representative Rolfs-E
Representatives Sifers, Roy, Sebelius, Peterson, & Hensley

Committee staff present:

Lynda Hutfles, Secretary
Mary Torrance, Revisor
Ranney Gilliland, Research

Conferees appearing before the committee:

Steven R. McCoy, Kansas Highway Patrol
Sgt. Bob Giffin, Kansas Highway Patrol
Reverend Richard Taylor, Kansans for Life at its Best
Charles Kohler, Kansas State Troopers Association
Elizabeth Taylor, Kansas Association of Alcohol and Drug Program Directors
Gene Johnson, Kansas Community Alcohol Safety Action Projects Association
Representative Bob Wunsch

The meeting was called to order by Chairman Miller.

Representative Walker made a motion, seconded by Representative Long, to approve the minutes of March 16. The motion carried.

HB2497 - Driving while impaired, driving infraction

Steven R. McCoy, Trooper for the Kansas Highway Patrol, gave testimony in support of the bill which addresses the problem of driving while impaired which is defined as .05 to .099 blood or breath alcohol content. The patrol feels this bill would allow police in Kansas to have more authority in their efforts to discourage the drinking individual from driving or attempting to drive a motor vehicle. See attachment A.

Sergeant Bob Giffin, Kansas Highway Patrol, gave testimony in support of the bill because of its potential for reducing the number of alcohol related accidents in Kansas. See attachment B.

Reverend Richard Taylor, Kansans for Life at its Best, gave testimony in support of the bill. He felt DUI should be at .05. He also would support lowering .10 to .08 or .05. See attachment C.

Trooper Charles Kohler, Kansas State Troopers Association, gave testimony in support of the bill which he believes will allow the patrol to remove those drivers which now would not be considered under the influence, but are just as dangerous operating vehicles on the highways. See attachment D.

Elizabeth Taylor, Kansas Association of Alcohol and Drug Program Directors, gave testimony in opposition to the bill. She told the committee she did support the concept, but did not feel the penalties were adequate. She felt the need to expand the penalty and require attendance at UI school.

Gene Johnson, Kansas Community Alcohol Safety Action Projects Association, gave testimony in opposition to the bill. Mr. Fohnson was concerned with the level of blood alcohol and the plea bargaining of DUI down to impaired.

Hearings were concluded on HB2497.

The Chairman appointed a sub-committee, chaired by Representative Sprague, with Representatives Charlton and Eckert as members, to make a recommendation to the full committee.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Federal & State Affairs
room 526S, Statehouse, at 1:30 a.m./p.m. on March 17, 1987

HB2373 - Penalties for riding with driver who is under influence of alcohol or drugs

Representative Bob Wunsch, sponsor of the bill, explained why he introduced it. He explained that in this bill you handle the matter before an accident occurs in connection with a DUI. Representative Wunsch offered some suggested amendments to the bill. See attachment E.

Reverend Richard Taylor, Kansans for Life at its Best, expressed support for the bill which should encourage persons who do not drink or who drink less to do the driving.

Hearings were concluded on HB2373.

HB2219 - Rabies Vaccine

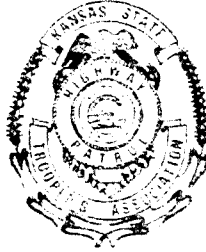
Representative Barr explained the bill in the absence of Dr. Kimmel. The legislature passed a version that a person cannot give a rabies vaccine unless he is a licensed veterinarian. It's not illegal at this time for a person to buy the vaccine, but it is illegal for the person to inject it.

There was discussion as to whether this bill was actually doing what was intended to do. A sub-committee was appointed by the Chairman to study HB2219. Representative Barr, chairman and Representative Bryant and Roper.

The Chairman announced there would be a number of bills taken up for discussion at the Wednesday meeting.

Written testimony was submitted by William McAdoo in opposition to the bill. See attachment F.

The meeting was adjourned.



KANSAS STATE TROOPERS ASSOCIATION

March 17, 1987

EXECUTIVE DIRECTOR

LARRY MOSSMAN
316 221-9500
Box 195
Winfield, Ks. 67156

Kansas House of Representatives
Federal and State Affairs Committee
Chairperson Miller

EXECUTIVE BOARD

Trooper
RAY BAILIFF
PRESIDENT
913-727-3424
Leavenworth, Ks. 66048

REFERENCE: House Bill #2497

Chairperson Miller and Members of the committee:

Trooper
AL SANCHEZ, JR
VICE PRESIDENT
Olathe, Ks. 66061

The Kansas State Troopers Association supports House Bill #2497, that addresses the problem of driving while impaired, defined as .05 to .099 blood or breath alcohol content.

Trooper
CHARLES KOHLER
SECRETARY
Kansas City, Ks. 66104

For the past several years the general public has asked for and received tougher laws to deal with drinking individuals who choose to operate motor vehicles on our public highways.

Trooper
KEN SWART
TREASURER
Topeka, Ks. 66614

Nationwide many states have recognized the need to lower the legal amount of alcohol concentration in a persons blood or breath to make our highways a safer place for the public.

DIVISION DIRECTORS

Trooper
LARRY OCHS
DIVISION ZERO
Ottawa, Ks. 66067

Driving while impaired is not a new idea and at the present time several states have laws concerning this. They allow police officers to effectively deal with persons that they believe should be prevented from driving until the alcohol in their blood or breath returns to an acceptable amount.

Trooper
JAMES PAULY
DIVISION ONE
Wamego, Ks. 66547

The final language in this bill should be very explicit. No plea bargaining from existing statutes should be allowed.

Trooper
DAVID OLLENBERGER
DIVISION TWO
Herington, Ks. 67449

Trooper
CHARLES WANAMAKER
DIVISION THREE
Wakeney, Ks. 67672

We feel that House Bill #2497 would allow police in Kansas to have more authority in our efforts to discourage the drinking individual from driving or attempting to drive a motor vehicle.

Trooper
JEFF COLLIER
DIVISION FOUR
Fort Scott, Ks. 66701

Trooper
GARY HARKNESS
DIVISION SIX
Larned, Ks. 67550

Trooper
BILL BROCKMAN
DIVISION SEVEN
Topeka, Ks. 66610

Thank you,

Steven R. McCoy
Steven R. McCoy, Trooper
Kansas Highway Patrol
Turnpike Division, 7-3
Topeka, Kansas

Trooper
TERRY MAPLE
DIVISION EIGHT
Wakarusa, Ks. 66546

Trooper
MICHAEL BACKUS
DIVISION NINE
Bonner Springs, Ks. 66012

Attachment A

B

SUMMARY OF TESTIMONY

Before the House Federal and State Affairs Committee

House Bill 2497

Presented by the Kansas Highway Patrol

(Sergeant Bob Giffin)

March 17, 1987

The Kansas Highway Patrol supports House Bill 2497 because of the potential it presents for reducing the number of alcohol related accidents in Kansas.

Driving While Intoxicated (DWI) is an offense that has gained national attention. An average of 25,000 Americans die annually as a result of alcohol related traffic accidents. In recent years the Kansas Legislature boldly stepped forward and significantly strengthened our DWI laws in an effort to save lives. As a result, Kansas has experienced a steady decline in alcohol related accidents since 1984.

Still, the problem is far from solved. In 1986, the Patrol experienced a 20% increase in DWI arrests. Of paramount concern is the driver whose ability to safely drive is "impaired". This driver, whose blood alcohol content (BAC) is not sufficiently high enough to support a DWI charge, is left uncontrolled and remains a significant threat to other highway users.

According to a recent study on alcohol consumption levels entitled "Skills Performance at Low Blood Alcohol Concentrations" by Herbert Maskowitz, evidence of driver impairment began at 0.015% BAC, with increasing impairment as the BAC level rises. It is an established fact that even a little alcohol reduces driving skills.

A major problem is the use of alcohol among our youth. Life expectancy has increased for every age group with the exception of 15 to 24 year olds. Alcohol related crashes are the number one cause of death in this age category. An Insurance Institute for Highway Safety status report stated:

"Most high school students say they have drunk alcoholic beverages by age 15, and, among licensed drivers, about one half of the males and a third of the females, admit to drinking and driving on occasion by age 17."

Historically, young people are involved in a disproportionate number of alcohol related accidents. Young people by their nature tend to be somewhat more daring in their driving habits and alcohol only contributes to the problem.

Attachment B

It is in this area, where a driver is not intoxicated according to statute but whose ability to safely drive is impaired, that a "driver impaired" law would be most beneficial. In Kansas in 1986, 7% of the drivers arrested for DWI had a BAC level of at least .05% but less than .10%. That equates to 907 drivers whose ability to drive was impaired to the point that they were arrested for DWI although they did not meet the statutory requirement of .10% needed to sustain a DWI conviction.

The Mid-America Research Institute, in a 1986 survey, found that on weekend nights, between the hours of 10 PM and 3 AM, 14% of the drivers have a BAC of at least .05% but less than .10%, while 5% of the drivers had BAC's of .10% or higher. The impaired driver is a real problem for all of us.

The Patrol requests the committee recommend House Bill 2497 favorable for passage.

The drinking driver is causing so much personal, social, and economic damage, we must come at the problem from every direction.

If passengers are found guilty along with the driver, this should encourage persons who do not drink or who drink less to do the driving.

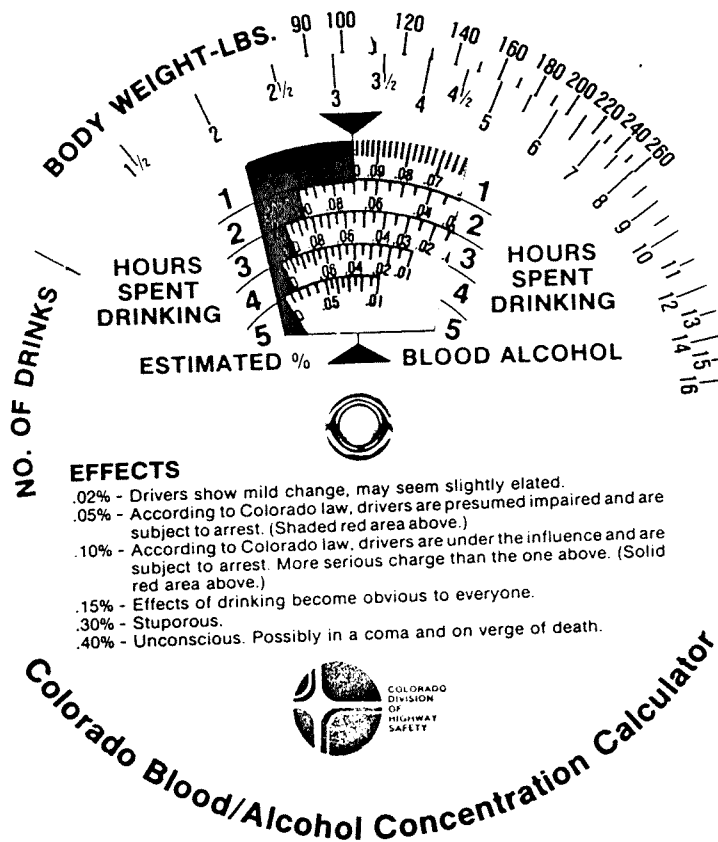
March 17, 1987 Hearing on HB 2497

Other states have made .05 a driver impaired crime. But his bill makes the penalty so light, it seems to relax our drinking driver laws.

As I understand current law, it is a crime to drive if blood alcohol is .10 or more, but if blood alcohol is below that, the drinking driver can still be convicted of D.U.I.

A D.U.I. penalty is severe. Making .05 to .099 a \$20 fine seems to be a wonderful escape hatch for the drinking driver.

It would be good to have .05 as driving while impaired crime, but the penalty should be only a little less than that of driving under the influence of alcohol.



According to this chart, a 160 pound person drinking 5 beers in one hour will have .10 blood alcohol. That is a lot of beer! In some foreign countries .05 is legally drunk. Utah, Idaho, Oregon, and Canada make .08 legally drunk.



KANSAS STATE TROOPERS ASSOCIATION

March 17, 1987

EXECUTIVE DIRECTOR

LARRY MOSSMAN
316-221-9500
Box 195
Winfield, Ks. 67156

Chairman and Committee Members
House Federal and State Affairs
State Capitol
Topeka, Kansas

EXECUTIVE BOARD

Trooper
RAY BAILIFF
PRESIDENT
913-727-3424
Leavenworth, Ks. 66048

REFERENCE: Driving while Impaired

Trooper
AL SANCHEZ, JR.
VICE PRESIDENT
Olathe, Ks. 66061

Dear Mr. Chairman and Committee Members:

Trooper
CHARLES KOHLER
SECRETARY
Kansas City, Ks. 66104

The Kansas State Troopers Association ask that you pass and recommend to the full House, the following Driving while Impaired bill. We believe that this bill will allow us to remove those drivers which now would not be considered under the influence but are just as dangerous operating vehicles on the highways.

Trooper
KEN SWART
TREASURER
Topeka, Ks. 66614

Trooper
MIKE ANDROES
SGT. AT ARMS
McPherson, Ks. 67460

It is our feeling that this bill would allow us to track the drinking driver through the judicial system. The following is a brief synopsis of how we envision this bill might work.

DIVISION DIRECTORS

Trooper
LARRY OCHS
DIVISION ZERO
Ottawa, Ks. 66067

A driver is stopped for driving under the influence by a police officer. The driver has three options at this point:

Trooper
JAMES PAULY
DIVISION ONE
Wamego, Ks. 66547

1. Refuse the breath/blood test and be suspended for the refusal and then convicted on the Driving under the Influence.
2. Take the breath/blood test and have results of .10 or more which would be considered Driving under the Influence.
3. Take the breath/blood test and have results of .05 to .09. At that time the Driving under the influence would be amended to Driving while impaired.

Trooper
DAVID OLLENBERGER
DIVISION TWO
Herington, Ks. 67449

Trooper
CHARLES WANAMAKER
DIVISION THREE
Wakeeney, Ks. 67672

Trooper
JEFF COLLIER
DIVISION FOUR
Fort Scott, Ks. 66701

Trooper
GEORGE "CHIP" WESTFALL
DIVISION FIVE
Newton, Ks. 67114

Trooper
GARY HARKNESS
DIVISION SIX
Larned, Ks. 67550


Trooper
BILL BROCKMAN
DIVISION SEVEN
Topeka, Ks. 66610

We would ask that the committee insert language to assure that Driving under the Influence with a reading of .10 or more would not be allowed reduction to the lesser charge of Driving while Impaired.

Trooper
TERRY MAPLE
DIVISION EIGHT
Wakarusa, Ks. 66546

This bill would assist Law Enforcement to remove the greatest threat to the Kansas motoring public, that of the drinking driver. We ask that you join us by passing this bill today.

Trooper
MICHAEL BACKUS
DIVISION NINE
Bonner Springs, Ks. 66012


Charles Kohler
Secretary

Attachment D

HOUSE BILL No. 2373

By Representative Wunsch

2-11

Attachment E

0017 AN ACT prohibiting certain acts with respect to riding with a
0018 driver who is under the influence of alcohol or drugs; provid-
0019 ing penalties for violations.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. (a) No person who holds a valid driver's license
0022 shall be a passenger in a motor vehicle which a person is
0023 operating or attempting to operate ~~in violation of K.S.A. 8-1567~~
0024 ~~and amendments thereto or in violation of a city ordinance which~~
0025 ~~prohibits the acts prohibited by that statute, as evidenced by~~
0026 ~~conviction of such a violation or by entering a diversion agree-~~
0027 ~~ment in lieu of further criminal proceedings on a complaint~~
0028 ~~alleging such a violation.~~

0029 (b) Violation of this section is a misdemeanor punishable by:

0030 (1) A fine of not less than ~~\$100 and not more than \$200~~ for a
0031 first conviction;

0032 (2) a fine of not less than ~~\$200 and not more than \$300~~ for a
0033 second conviction; and

0034 (3) a fine of not less than ~~\$300 and not more than \$500~~ for a
0035 conviction of a third or subsequent offense.

0036 (c) A defendant sentenced upon conviction of a violation of
0037 this section shall be required to pay at least the minimum fine
0038 provided by this section and shall not be eligible for probation or
0039 suspension of sentence.

0040 (d) The court may establish the terms and time for payment
0041 of any fines and costs imposed in a prosecution pursuant to this
0042 section, which fine and costs shall be required to be paid not
0043 later than 90 days after imposed.

0044 (e) For the purpose of determining whether a conviction is a
0045 first, second, third or subsequent offense in sentencing under

within this state while the alcohol concentration, as defined by
K.S.A. 8-1005 and amendments thereto, in the blood or breath of
the person operating or attempting to operate such motor vehicle
is .15 or more

\$50 nor more than \$100

\$100 nor more than \$150

\$150 nor more than \$250

0046 this section it is irrelevant whether an offense occurred before or
0047 after conviction for a previous offense.

0048 (f) ~~Conviction of a violation of this section shall not be ad-~~
0049 ~~missible to prove civil liability in any action.~~

0050 Sec. 2. This act shall take effect and be in force from and
0051 after its publication in the statute book.

Evidence of commission of an act prohibited by this section shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.

(g) Violation of this section shall not be considered a moving violation pursuant to K.S.A. 8-249 and amendments thereto.

(h) Any complaint filed pursuant to this section before the determination of the alcohol concentration in the blood or breath of the person operating or attempting to operate the motor vehicle shall be dismissed if the alcohol concentration is determined to be less than .15.

The Honorable Robert Miller, Chairman
Committee on Federal and State Affairs
Kansas House of Representatives

March 13, 1987

Thank you for the opportunity to appear before the Committee on Federal and State Affairs on Tuesday, March 17 regarding HB 2219, concerning animal rabies vaccine. I was present at the previously scheduled meeting of February 26, which was finally postponed; however, I will be unable to attend this meeting.

I strongly oppose the provisions of HB 2219 which would prohibit the injection of rabies vaccine into any animal by anyone other than a licensed veterinary or a person under a vet's supervision.

I have been caring for my dogs --- hunting and "house" types --- for some 25 years, such treatment including shots, worming, cleaning and suturing cuts and tears, docking puppy tails and removing dew claws. My old Brittany turned 15 the 9th of this month; she has never seen a vet. She has whelped eight litters of puppies. Her mother, whom I put to sleep at the age of 12, saw a vet twice --- for her first two shots, before I learned that I could give them myself and still meet the Topeka licensing requirements. This dog had nine litters. (I raise one litter of puppies each year to meet requests from sportsmen who are familiar with the quality of my dogs.) My daughter and two sons are also quite competent in providing comparable care to their dogs. (The training in administering injections proved invaluable to my daughter; she gives herself and her two children allergy shots.)

HB 2219 would prohibit me from injecting my dogs, while the American Medical Association acknowledges the capability --- and the inherent logic --- of an individual to administer certain injections to himself and/or family members. This policy encourages the philosophy of self-help currently being fostered by the AMA, rather than dependency on out-side aid.

I have never heard of anyone contracting rabies from accidental injection, although it is possible, according to Dr. Voorhees of the Kansas State University School of Veterinary Medicine. Should it occur, rabies no longer poses the threat to human life that it once did. Should accidental injection occur, appropriate treatment could begin immediately.

I also believe that one of the side effects of HB 2219 would be an increase in the potential for incidents of rabies because of the failure of owners to get their dogs immunized against rabies because of the cost. A veterinarian-administered rabies shot costs \$10 - \$15; my cost

Attachment F

is approximately \$3. A lot of people simply wouldn't pay the difference; they would rather take the chance --- especially on a "Heinz 57" variety of dog which cost them little, if anything, to acquire. Feeding them is costly enough for a lot of people.

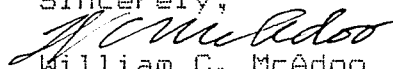
I seriously doubt that the number of dog owners such as myself who care for our own animals would pose an economic "threat" to the veterinary medical profession. When I need it, I don't hesitate to seek the professional expertise of a qualified vet. I don't believe that I should be denied the right --- and it is that until it is taken from me --- as well as what I feel is the responsibility, to personally see to the health of my pets.

I believe such restrictions of a private individual injecting rabies vaccine into his animals should be deleted from HB 2219.

I also recommend that legislative action be taken immediately to rescind any existing prohibitions of such owner-administered injections and the availability of such rabies and other vaccines necessary for the preventative maintenance of an animal's health.

Thank you again for the opportunity to participate in the legislative process. Thank you for your dedicated service to the people of Kansas.

Sincerely,



William C. McAdoo
c/o KDOT Div. of Aviation
7th Floor, Docking St. Off. Bldg.