

Approved March 27, 1987
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Robert Frey at
Chairperson

10:00 a.m./~~xxx~~ on March 26, 1987 in room 514-S of the Capitol.

~~All~~ members ~~xxx~~ present ~~except~~: Senators Frey, Hoferer, Burke, Feleciano, Langworthy, Steineger, Talkington, Winter and Yost.

Committee staff present:

Jerry Donaldson, Legislative Research Department
Gordon Self, Office of Revisor of Statutes

Conferees appearing before the committee:

Reverend Richard Taylor, Kansans For Life At Its Best
Omar Stalvo, Kansas Fish and Game Commission
Bill Hanzlick, Kansas Fish and Game Commission

House Bill 2265 - Boating under the influence of alcohol or drugs.

Reverend Richard Taylor, Kansans for Life At Its Best, appeared in support of the bill. He testified if persons are injured in a car or motorcycle crash, they are laying beside the road in a friendly environment. Many survive. If a person is injured or thrown from a boat, they are in a hostile environment. Most drown. A copy of his testimony is attached (See Attachment I).

Omar Stalvo, Kansas Fish and Game Commission, testified the commission supports this legislation. This law would give them the authority in the implied consent situation. He pointed out the United Coast Guard is writing a B.U.I. section that will apply to those states that don't have a B.U.I. statute. During committee discussion, the chairman inquired how can you suspend something that doesn't exist? Mr. Stalvo replied if they suspend privileges, they will put this in the computer and if found operating a motor boat they will be in violation. There is no license to operate a boat. Considerable discussion was held concerning enforcement and technical problems with the bill. The chairman said Representative Teagarden had talked with him concerning an amendment to the bill to include making it illegal to hunt while under the influence. Bill Hanzlick, Kansas Fish and Game Commission, replied they would have no problem with the concept. There are no specific laws we can take a person in.

House Bill 2269 - Certain mortgages declared void.

The chairman explained the bill would allow old mortgages to lapse. Following committee discussion, Senator Talkington moved to report the bill favorably and place it on the consent calendar. Senator Hoferer seconded the motion, and the motion carried.

House Bill 2320 - Release of persons unable to make bond under municipal court procedure.

The chairman explained the bill. Following committee discussion, Senator Yost moved to report the bill favorably. Senator Talkington seconded the motion, and the motion carried.

Representative Heinemann appeared during action on the bill, but he did not speak.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,

room 514-S, Statehouse, at 10:00 a.m. ~~xxx~~ on March 26, 19 87

House Bill 2265 - Boating under the influence of alcohol or drugs.

During committee discussion, a committee member reported he did research on drinking and driving and part of the statistics was how high it was for boating accidents. Statistics showed accidents from boating and drinking was much higher than for driving. Considerable committee discussion was held. The chairman stated he and Senator Hoferer will meet with the sponsor of the bill, Representative Fox, to discuss the bill.

House Bill 2151 - Amendments to revised uniform limited partnership act.

Following review of the bill, Senator Feleciano moved to amend the bill by striking subsection (f) on page 5 and include a technical amendment in line 29. Senator Hoferer seconded the motion, and the motion carried.

Senator Feleciano moved to report the bill favorably as amended. Senator Hoferer seconded the motion, and the motion carried.

House Bill 2412 - Smoking at public places or public meetings prohibited except in designated smoking areas.

Following committee discussion, Senator Talkington moved to amend the bill by striking the language "including court costs". Senator Langworthy seconded the motion. The motion carried.

Senator Talkington moved to amend the bill by striking the language concerning fines being retained by county. Senator Hoferer seconded the motion and the motion carried.

Senator Yost moved to report the bill favorably as amended. Senator Winter seconded the motion, and the motion carried.

The meeting adjourned.

A copy of the guest list is attached (See Attachment II).

A copy of a handout from the Kansas Fish & Game Commission is attached (See Attachment III).

A copy of a handout from the Sunflower Alcohol Safety Action Project, Inc., is attached (See Attachment IV).

March 26, 1987 Hearing on HB 2265
Senate Judiciary Committee

Richard Taylor
KANSANS FOR LIFE AT ITS BEST!

The Third Special Report on ALCOHOL & HEALTH to the U.S. Congress from the National Institute on Alcohol Abuse and Alcoholism contained these facts: Of all fatal accidents occurring on the roads today, 59% involve alcohol. Two-thirds of these fatal accidents involve an alcoholic. 83% of fire deaths, 69% of drownings, 63% of home accidents, 36% of pedestrian accidents, 55% of arrests are linked to alcohol. Alcoholism accounts for 37.4% of admissions to state and county mental hospitals. Violent behavior attributed to alcohol accounts for 64% of murders, 72% of assaults, 34% of rapes, 50% of other sex crimes, 33% of suicides, 56% of fight or assaults in the home, and 70% of child abuse.

Alcohol is involved in 69% of drownings. Why? Dr. Morris Chafetz has helped the liquor industry for many years. Yet as pro-liquor as he is, in his book, LIQUOR THE SERVANT OF MAN, we read the following:

In any case, it is not necessary to see a man drink himself to death in order to observe the interesting spectacle I am about to describe. For it is under the influence of alcohol that we are a witness to the retracing of the whole life history of the race — in one man, in one evening — all the way back down the evolutionary stairway. First, his herd-group tendencies disappear (these are the last tendencies man has acquired and are recognizable as the following: consideration of other people, restraints, refinements and niceties). Next to go are anxiety, prudence, modesty, reserve, and all the rest of what psychologists call "group logic," the orthodox rules of group or civilized conduct. Older, more basic impulses push up from below: jerky speech, roaring laughter, excessive sentimentality. By now he has gone a good way down; he has left the herd and is imitating the procedures of the hulking man with the one-inch forehead who was his forebear. Psychically he is roving alone — coarse, reckless, predatory, dangerous, and possibly criminal, because the criminal life of today comes close to the normal life of primitive man.

(Alcohol is a drug. It is our number one drug problem. Alcohol causes more human misery than all other drugs combined. For the bill to be technically correct, places that mention "alcohol or drugs" and "alcohol and drugs" should be amended to read "alcohol or other drugs" and "alcohol and other drugs.")

The hulking man with a one-inch forehead is operating too many boats in Kansas. Passage of House Bill 2265 should reduce their number.

I served aboard ship as a Gunnery Officer in the Navy during World War II. Water is beautiful, but demands our respect. If persons are injured in a car or motorcycle crash, they are laying beside the road in a friendly environment. Many survive. If a person is injured or thrown from a boat, they are in a hostile environment. Most drown.

Every person who enjoys our lakes, who wants to live in freedom from the hulking man with a one-inch forehead who is operating too many boats in Kansas today, should support House Bill 2265.

Atch. I
Senate Judiciary
3-26-87

Kansas Fish & Game

HEADQUARTERS
BOX 54A, RT. 2, PRATT, KS 67124



3-26-87

10:00 A

(316) 672-5911

POSITION PAPER

KANSAS FISH & GAME COMMISSION

SUPPORTS HB #2265 FOR THE FOLLOWING REASONS

Kansas Fish & Game Commission supports this legislation for the following reasons:

1. It will allow our officers to enforce an area of the boating statute that has been almost unenforceable in the past. No blood-alcohol content listed in the old statute.
2. It will hopefully cut down on the number of recreational boating accidents on public water.
3. We receive numerous complaints annually about boaters operating under the influence on our state waters. This legislation will allow our officers to handle these complaints more effectively. Two years ago we started keeping account of all possible B.U.I. related accidents. Four of the first five drownings were drug and alcohol related.
4. Our officers are continually on the watch for D.W.I. subjects. They have the basic training necessary to handle these situations. Very little additional training will be necessary. What will be needed will be picked up in our 40-hour annual in-service training. Officers are trained at K.L.E.T.C. initially.
5. The U.S. Coast Guard is writing a B.U.I. section that will apply to those states that don't have a B.U.I. statute. If we have one in effect, they will be less likely to force something off onto us that may not cover all of the bases as this bill does.

EQUAL OPPORTUNITY EMPLOYER

*Attch. III
Senate Judiciary
3-26-87*

3-26-87
10:00



Sunflower Alcohol Safety Action Project, Inc.

Suite F, 112 S.E. 7th / Topeka, Kansas 66603 / Phone (913) 232-1415

March 26, 1987

Senator Robert G. Frey
Chairman, Judicial Committee
Statehouse
Topeka, Kansas

RE: House Bill 2265

Dear Senator Frey

The Kansas Community Alcohol Safety Action Project Coordinator's Association support House Bill 2265 for those people who are operating a motor boat or manipulating any other water device while under the influence of alcohol or drugs. As we draw attention to our state's fine lakes and recreational areas through promotional efforts of economic development, we must also promote responsible use of alcoholic beverages as it relates to water safety.

Our sources with the Fish and Game Commission estimate that between 30 and 40 percent of all pleasure boat operators will operate their vessels in our state's recreational waters while under the influence of alcohol. We can assume that at least 10 percent of those people operating, or manipulating, a motor boat or other water device will be over the legal intoxication limit of .10. Figures provided by the Fish and Game Commission for the year 1986 would indicate that there were 9 fatalities and 23 injuries as a direct result of boating accidents. It must be noted that 4 of the first 5 fatality accidents were alcohol related.

The present law does not give the Fish and Game Officer any guidelines to follow, other than the visual observation, for the apprehension of an offender. The proposed legislation would put some teeth in the law and those people who have violated their right to operate a boat, vessel or other water device in our recreational areas could be prosecuted.

We would suggest that the proposed legislation be amended during your committee hearings to include the provisions as noted in KSA 8-1008 for those who operate, or attempt to operate, motor vehicles

*Attch. II
Senate Judiciary
3-26-87*


Senator Robert G. Frey
March 26, 1987
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in the state of Kansas while under the influence of alcohol, drugs or both. As you know, most of the individuals operating boats use other vehicles to get to the boating site.

We believe that this legislation will provide an excellent opportunity to promote water safety, as well as highway safety, within our state. Our organization would be more than willing to cooperate with the judicial system, and the Fish and Game Commission, in providing evaluations for these offenders and referring them to the appropriate education and/or treatment program.

Please submit these suggestions to your committee at your committee hearing on this date, March 26, 1987.

Respectfully yours


Gene Johnson
Legislative Liaison

GJ/1kt

Catch .IV