

Approved April 8, 1988
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

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

9:00 a.m./p.m. on April 4, 1988 in room 514-S of the Capitol.

All members ~~were~~ present ~~except~~: Senators Frey, Hoferer, Burke, Gaines, Langworthy,
Parrish, Steineger, and Winter.

Committee staff present:

Mike Heim, Legislative Research Department

Conferees appearing before the committee:

Representative Michael O'Neal
Attorney General Robert Stephan
Galen Davis, Governor's Office
Cliff Heckathorn, Kansas Head Injury Association
Dave Johnson, Kansas Bureau of Investigation
Gene Johnson, Kansas A.S.A.P. Association Council
Richard Taylor, Kansans For Life At Its Best
Wanda Stewart, Mothers Against Drunk Driving
Jim Lawing, American Civil Liberties Union

Senate Bill 728 - Controlled substances, presumptive and mandatory sentencing.

House Bill 2951 - Classification of aggravated vehicular homicide as class D felony.

House Bill 2952 - Sentencing for alcohol and drug-related offenses; victim impact, restitution.

Representative Michael O'Neal, co-sponsor of House Bill 2951 and House Bill 2952, explained House Bill 2951 increases the penalty for aggravated vehicular homicide. House Bill 2952 creates a victim impact statement in DUI cases. He pointed out Senate Bill 111 created the crime of vehicular battery charges with an E felony, and that bill is on the House calendar. Concerning House Bill 2952 Representative O'Neal proposed the bill be amended to reinsert "may" in place of "shall". He said I do not believe mandatory provisions are really required.

Attorney General Robert Stephan testified in support of the three bills. He testified, I believe that we must send the message to drunk drivers that they may not kill and receive only slaps on their hands. House Bill 2951 would also make the penalty consistent with that of involuntary manslaughter. House Bill 2952 requires a judge to order that restitution be paid to a victim or victim's family if a person is convicted of an alcohol or drug-related offense. The attorney general stated he does support the proposal to change "shall" to "may". In regard to Senate Bill 728, Attorney General Stephan stated I realize that we have a prison over-crowding problem and I also understand the reluctance on the part of the legislature to pass any laws

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 9:00 a.m./p.m. on April 4, 1988

Senate Bill 728, House Bill 2951, House Bill 2952 continued

which could result in putting more people in the prison system. Even so, drug traffickers cannot be allowed to continue to peddle their deadly ware with impunity. Copies of his testimony on the bill are attached (See Attachments I). Committee discussion was held with the attorney general concerning the \$800,000 funding.

Galen Davis, Governor's Office, testified in support of the three bills. In regard to House Bill 2951, Mr. Davis stated it is our belief that the sentence prescribed for a Class D felony of two years minimum with a 10 year maximum is a more appropriate penalty for this crime. In regard to House Bill 2952, he stated by allowing judges to order restitution we further convey this society's value that says a person should be held financially as well as legally and morally responsible for their unlawful acts. He said he would support the recommended amendments that were given previously. He called the committee's attention to the handout that defines involuntary manslaughter and aggravated vehicular homicide. Copies of his handouts are attached (See Attachments II).

Cliff Heckathorn, Kansas Head Injury Association, appeared in support of House Bill 2951 and House Bill 2952. He stated he has a son that is handicapped as a result of a head injury from an accident that involved alcohol and possibly the cause of the accident. He testified the two house bills will help as a deterrent. The association supports these bills and recommends they be passed.

Dave Johnson, Kansas Bureau of Investigation, testified they worked closely with the governor's office and the attorney general's office to prepare Senate Bill 728, and they are totally in support of it. He said in an intelligence report Kansas is listed as having weak drug laws, and that is why a person set up a lab in Kansas. He stated increased amounts of narcotics come into Western Kansas because of the abandoned air fields.

Gene Johnson, Kansas A.S.A.P. Association Council, appeared in support of the two house bills. Concerning House Bill 2951 he proposed amending the bill, starting in line 32, "for which the offender shall (a) be fined not less than \$1,000; (b) not be eligible for release on probation suspension or reduction of sentence or parole until the person has served at least 90 days imprisonment; and (c) be required, as a condition of any grant of probation, suspension or reduction of sentence, parole or other release to enter into and successfully complete an alcohol and drug safety action program as provided in K.S.A. 8-1008 and amendments thereto, or both the education and treatment programs". A copy of his proposed amendment is attached (See Attachment III).

Richard Taylor, Kansans For Life At Its Best, testified let us not be satisfied until we can proclaim, no one is killed or injured in Kansas by drinking drivers, because drinkers here choose not to drink before driving or they wait one hour per drink before driving. A copy of his testimony is attached (See Attachments IV).

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

room 514-S, Statehouse, at 9:00 a.m./~~pm~~ on April 4, 1988

Senate Bill 728, House Bill 2951, and House Bill 2952 continued

Wanda Stewart, Mothers Against Drunk Driving, testified fully 30% of those convicted of a DUI crime are repeat offenders. Obviously our criminal justice system has some shortcomings in guaranteeing swift and sure punishment as an adequate deterrent to these offenders. That is why MADD insists on better laws, stringent enforcement and tougher prosecution so that our streets and highways can be made safe. A copy of her testimony is attached (See Attachment V).

Jim Lawing, American Civil Liberties Union, testified we don't want to set aside the constitution to get at this problem. There is a particular aspect of the bill, that of putting a person in jail and making sure probation or parole is given if all restitution is made. He suggested the committee look at a particular case concerning imprisonment for a debt. He said this could very well be unconstitutional. Having victims come into court and give testimony about the tragedy, this will make the judge eliminate any benefit of doubt. I don't think this particular testimony has a place in criminal investigation. There ought to be a civil remedy. He suggested a liability limit of \$25,000 and a maximum of \$50,000, which would be a more realistic way of meeting responsibilities of a person that has caused an injury. He suggested anybody charged with driving under influence has to have insurance for the next three years, and they have to carry larger liability limit.

During committee discussion, a committee member inquired of Mrs. Stewart, how long a person like you are talking about who is found guilty should be in prison? Mrs. Stewart replied I cannot understand the limits of sentencing when you are talking about loss of life. It has to be something that is consistent. They often plea bargain to a lesser offense. For loss of life, if I have to choose between one and five, I would have to choose five. A committee member inquired of the attorney general, the victim's impact statement, are you proposing to do that to a judge? The attorney general replied it is a lot easier to be easier when you don't have to face the victim eye to eye. The chairman inquired, regarding discretionary whether order restitution if the victims are given the opportunity to appear, would the defendant have the right to cross examine? The attorney general replied, I have not seen where convicted criminal don't have opportunity to do anything. It is very therapeutic to tell someone that they might have to make some form of restitution.

Attorney General Stephan pointed out a typo in Senate Bill 728 where the dosage 8200 appears in the bill and it should be 200 dosages.

The meeting adjourned.

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

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: 4-4-88

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
<i>Kevin Kelly</i>	<i>Overland Park</i>	<i>Leum</i>
DALE FINGER	TOPEKA	HBI
STAN HEFFLEY	LAWRENCE	KBI
Dave Johnson	Topeka	KBI
JOHN D. Pinegar	Topeka	KBI
Neil A. Waermen	Topeka	AG
Gene Johnson	Topeka	Ks. ASOP Assn. Council
Brenda Braden	Topeka	AG
Cliff Heckathorn	Topeka	Ks. Head Injury Assoc.
Ric Silber		D.O.B.
John Conard	Topeka	Governor
Ed Davis	Topeka	Governors Office
Gene Allen	Topeka	Insurance Office
Marcus Lindberg	Topeka	A.G.
Wanda Steward	ELDERADO	KSMADD.
Bob Stephan	Topeka	AG
DICK TAYLOR	TOPEKA	LIFE AT BEST



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

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

Testimony of Attorney General Robert T. Stephan

Before Senate Judiciary Committee
Hearing on Senate Bill No. 728

April 4, 1988

Mr. Chairman & Members of the Committee:

As you are aware, I appointed a Task Force on Drugs in late 1986 to study the drug problems in this state. The Task Force came from all over Kansas and represented many disciplines: law enforcement, education, prevention and treatment. One of the Task Force's greatest concerns has been the sale of drugs, especially the sale of drugs to minors.

In his State of the State address, Governor Hayden promised to work for legislation to get tough with drug traffickers. Senate Bill No. 728 is a joining of these concerns.

This bill provides for mandatory minimum sentences for persons who sell controlled substances as listed in section 3, in the amounts equal to or greater than the amounts specified or in any amount to a minor. For selling amounts equal to one-half or greater than one-half of those specified in section 3, there would be a presumption that the offender would be sentenced to imprisonment.

The chart in section 3 came largely from the Federal Government's Sentencing Guidelines, although it has been modified for Kansas. For example, the amount of marihuana which would trigger mandatory imprisonment is 1500 grams--or a little over 3 pounds. The amount for presumptive imprisonment is 750 grams or slightly more than 1½ pounds. For cocaine, the mandatory amount is set at 25 grams. That's just under a pound and is just the right amount to upset the current distribution system, if dealers want to avoid the mandatory sentencing provisions. The KBI advises us that these amounts would catch the big dealers in Kansas.

Att. I

I realize that we have a prison over-crowding problem and I also understand the reluctance on the part of the legislature to pass any laws which could result in putting more people in the prison system. Even so, drug traffickers cannot be allowed to continue to peddle their deadly wares with impunity. Drugs destroy young lives, tear families apart and cause so many other crimes: everything from burglaries and robberies committed by addicts to support their habits to brutal murders committed by others in the distribution chain to protect the dealers and smugglers. Therefore, I am asking you to support Senate Bill No. 728 and let drug traffickers know that Kansas will treat them most harshly.

Thank you for your consideration.



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ROBERT T. STEPHAN
ATTORNEY GENERAL

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CONSUMER PROTECTION: 296-3751

TESTIMONY OF
ATTORNEY GENERAL ROBERT T. STEPHAN
ON
HB 2551 and HB 2952
BEFORE SENATE JUDICIARY COMMITTEE
April 4, 1988

Mr. Chairman and Members of the Committee:

The two bills you are considering today, House Bills 2951 and 2952, are two pieces of the proposals Governor Hayden and I announced to deal with the drunk driving problem in Kansas.

HB 2951 would raise the penalty on aggravated vehicular homicide from an "E" to a "D" felony. The Senate has already passed Senate Bill 111 - which is on general orders in the House - and which creates the crimes of vehicular battery in the first and second degrees. Vehicular battery in the first degree will be an "E" felony. I believe that we must send the message to drunk drivers that they may not kill and receive only slaps on their hands. This would also make the penalty consistent with that of involuntary manslaughter.

House Bill 2952 requires a judge to order that restitution be paid to a victim or victim's family if a person is convicted of an alcohol or drug-related offense. Restitution would be ordered if a death, personal injury or property damage occurred. I believe victims of drunk drivers should be compensated by the person who caused their loss. Drunk drivers must be required to bear the consequences of their actions.

The bill also requires a court to permit the victim or victim's family to appear and the impact the offender's alcohol or drug-related crime has had on the victim or the victim's family. For far too long, victims have been overlooked by the justice system. It is time for the victim to have a day in court.

I urge your support of these bills.

STATE OF KANSAS



OFFICE OF THE GOVERNOR

State Capitol
Topeka 66612-1590
(913) 296-3232

Mike Hayden Governor

Testimony Concerning HB 2951 and HB 2952
Presented To
The Senate Judiciary Committee
April 4, 1988
By
Galen E. Davis
Governor's Special Assistant on Drug Abuse

Mr. Chairman, members of the Committee, I appreciate the opportunity to testify before you today in support of House Bills 2951 and 2952.

Introduction

President Reagan has described drunk driving as "a national menace, a national tragedy and a national disgrace." In America, drunk drivers were responsible for about 1/2 of the 46,000 driving fatalities in 1986. According to the National Highway Traffic Safety Administration a person dies in this country in a DUI crash every 27 minutes. The number one killer of teenagers in this country is drinking, drug use and driving.

Kansas Department of Transportation and Kansas Bureau of Investigation statistics indicate that in 1986 there were 14,520 DUI arrests, 4234 injuries, and 224 fatalities related to drunk driving. Clearly, we have reason to further address this problem in Kansas.

Previous legislation, enforcement, educational programs, media attention, and increased citizen activism are helping with this problem. The bill before you today will strengthen our efforts to combat the reckless and inexcusable behavior of drunk driving.

Att. II

On Wednesday, January 6, Governor Hayden and Attorney General Stephen called for additional legislation to strengthen this state's laws against driving under the influence. In the Governor's Legislative Message on January 12, presented to the 1988 Legislature, Governor Hayden again requested your support for seven legislative measures to combat drunk and drugged driving. Several of these requested measures are before you today in HB 2951 and HB 2952. The ultimate goal of these measures is to protect the health and safety of Kansas citizens by reducing the incidence of drinking and driving, alcohol related crashes, injuries, and fatalities.

House Bills 2951 and 2952 incorporate several of the leading methods for combatting drunken driving:

House Bill 2951

This bill seeks to reclassify the crime of aggravated vehicular homicide from a Class E felony to a Class D felony.

One of the finest qualities of our country and our state is the value we place on human life. We care deeply about people. We reel in disbelief when one person takes the life of an innocent victim.

Criminal law typically treats the taking of another person's life as the most serious of all, offenses. The crime of drinking, driving and causing a crash where another person is killed is a crime against us all. It could have been any one of us who was killed by the wanton act of the drunk driver.

This crime seems very well described in the crime of involuntary manslaughter (KSA21-3404) which is currently a Class D felony. Making aggravated vehicular homicide a D felony would show consistency between crimes that have almost identical wording. A handout showing a side by side comparison of the wording of these two laws is included. Clearly, it is no less serious when death is caused by a person who drives and kills while under the influence.

It is our belief that the sentence prescribed for a Class D felony of 2 years minimum with a 10 year maximum is a more appropriate penalty for this crime. The general public's perception of this type of severe sanctioning also serves as a significant strategy for the general deterrence of driving under the influence.

House Bill 2952

Quite often the victim of crime is forgotten in our society's attempt to protect the rights of the accused. This bill seeks to provide victims or the families of victims with the opportunity to testify prior to the sentencing of a person convicted of causing serious injury or death while driving under the influence. Additionally, this bill authorizes courts to require the paying of restitution to victims or the families of victims when a person is convicted of causing severe injury or death while DUI.

The requirement that prosecutors must notify victims of their right to testify prior to sentencing ensures that the judge gets a full and complete picture of the impact this crime has had on its innocent victim.

By allowing judges to order restitution we further convey this society's value that says a person should be held financially as well as legally and morally responsible for their unlawful acts.

Your positive action on this bill will communicate this legislature's concern for the innocent victims of this crime.

Impact on Prisons

In considering the prison issue relative to HB 2951 we think it is important to point out that:

- * Incarceration is not made mandatory by this bill
- * The number of inmates incarcerated for Aggravated Vehicular Homicide is 21, which is:
 - ** .3% of all inmates (21 of 5586)
 - ** 2.7% of all E felony inmates (21 of 767)
- * Although it may be impossible to predict prison increases we do not see an appreciable increase in the prison population because of this bill.
- * The deterrence value of this change may cause a decrease in drunk driving and a resultant decrease in aggravated vehicular homicide cases.

In Conclusion:

We appreciate the commitment of this committee to review and consider the passage of each of these bills. We stand at a crossroads that could make Kansas one of the most progressive states in America in combatting drinking and driving. Let us commit that together we Kansans can truly make drunken driving morally, socially and legally unacceptable.

Thank you very much for the opportunity to appear before you.

STATE OF KANSAS



OFFICE OF THE GOVERNOR

State Capitol
Topeka 66612-1590
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Mike Hayden Governor

Testimony Concerning SB 728
Presented To
The Senate Judiciary Committee
April 4, 1988

By
Galen Davis
Governor's Special Assistant on Drug Abuse

Mr. Chairman, member of the committee, I appreciate the opportunity to appear before you today to speak in favor of SB 728.

In my testimony on drug trafficking before this committee on February 23, I quoted a number of statistics establishing the levels of illegal drug use in the United States and in our own state. Additionally, I discussed the elements of a comprehensive approach to prevent and reduce illicit drug use. For the purpose of brevity I will not review that information but I would ask you to keep in mind the severity of the illegal drug problem in our nation.

Threat to Society

This bill is targeted at major illicit traffickers of drugs. Drug traffickers are unconscionable, calculating, dangerous people. They have a nature that is cold - blooded and indifferent. They are a leech on our society, draining the lifeblood of our economy, our productivity, and our youth.

In the March 28, Newsweek cover story entitled, The Drug Gangs - Waging War in America's Cities, they state, "Loosely organized gangs are spreading drugs and violence from large urban areas to smaller cities and even to remote areas of the country." A federal enforcement official, in talking about drug traffickers, says they are reckless and sociopathic. "The result is a casual acceptance of - and sometimes enthusiasm for - torture and murder, "drive by" shootings and public mayhem. If they don't kill you, they'll kill your mother," the federal official concluded. Drug traffickers in general and major drug traffickers specifically are a serious threat to this society.

Bill Development

The bill before you has a general structure similar to the federal drug trafficking law that I discussed with you in February. Keeping that in mind, I can say to you that SB 728 is very much a Kansas bill. The ideas and language in this bill have come from the Governor and his staff, legislators, the Attorney General and his staff, the KBI, and the Attorney General's Task Force.

Bill Elements

The critical elements of this bill include:

- 1) A mandatory minimum sentence for distributing drugs to a minor
- 2) A mandatory minimum sentence for major drug traffickers as defined in this bill
- 3) Presumptive sentencing for drug traffickers with 1/2 of the amounts listed in the table in this bill
- 4) Making it a C felony crime to illegally manufacture certain drugs

We also think it is important for you to know what the current situation is relative to drug law offenders in our prison system. A table is attached to provide you with that information. Please note that although many people consider drug trafficking to be the single greatest threat to this country and state, only 6.7% of our prison population is incarcerated on drug charges.

Conclusion

The Governor supports a comprehensive approach to the problems of illicit drug use in Kansas. We continue to develop and support drug education, prevention, intervention, treatment, and enforcement initiatives. Sophisticated legislation is also needed to reduce the supply of illegal drugs. The drug trafficking bill before you would help:

- 1) By providing structure and uniformity in discerning who are the major drug traffickers
- 2) By giving guidance to our district court judges on who should be imprisoned for drug trafficking
- 3) By providing consistency on drug trafficking convictions among our district courts throughout Kansas
- 4) By sending a clear message to drug traffickers that we will not tolerate the sale or distribution of drugs to our youth.

As the Governor has said, we can not and we will not quietly resign ourselves to this threat of drug trafficking simply because it is so complex and the occurrences have become so commonplace.

Governor Hayden supports SB 728 because it sends a clear message of swift and sure sanctions to major drug traffickers who would try to bankrupt the people of this state financially, physically, emotionally and morally.

Thank you for your attention to this matter and for the opportunity to appear before you today.

COMPARISON OF INMATE POPULATION
DRUG RELATED VS TOTAL POPULATION

June 30, 1987

	<u>Total</u>	<u>Drug Related</u>	<u>% of Total</u>
A Felony	388	1	.2%
B Felony	1363	2	.1%
C Felony	1358	287	21.1%
D Felony	1628	67	4.1%
E Felony	767	19	2.4%
Unknown Class	<u>82</u>	<u>---</u>	<u>---</u>
Total	5586	376	6.7%

Source: Kansas Department of Corrections Annual Report
June 30, 1987

21-3404. Involuntary manslaughter. (a) Involuntary manslaughter is the unlawful killing of a human being, without malice, which is done unintentionally in the wanton commission of an unlawful act not amounting to felony; or in the commission of a lawful act in an unlawful or wanton manner.

(b) As used in this section, an "unlawful act" is any act which is prohibited by a statute of the United States or the state of Kansas or an ordinance of any city within the state, which statute or ordinance is enacted for the protection of human life or safety.

(c) Involuntary manslaughter is a class D felony.

History: L. 1969, ch. 180, § 21-3404; L. 1979, ch. 90, § 3; L. 1982, ch. 132, § 2; May 13.

Law Review and Bar Journal References:

"Criminal Law: The Kansas Approach to the Battered Woman's Use of Self-Defense [*State v. Hundley*, 236 Kan. 461, 693 P.2d 475 (1985)]," Shelley A. Ryan, 25 W.L.J. 174, 176, 178 (1985).

21-3405a. Aggravated vehicular homicide. (1) Aggravated vehicular homicide is the unintentional killing of a human being without malice, which is done while committing a violation of K.S.A. 8-1566, 8-1567 or 8-1568, and amendments thereto, or the ordinance of a city which prohibits any of the acts prohibited by those statutes.

(2) This section shall be applicable only when the death of the injured person ensues within one year as a proximate result of the operation of a vehicle in the manner described in subsection (1).

(3) Aggravated vehicular homicide is a class E felony.

History: L. 1984, ch. 39, § 48; L. 1985, ch. 48, § 14; July 1.

Law Review and Bar Journal References:

"Third Party Liability for Drunken Driving," Betsey J. Morgan, 26 W.L.J. 267, 280 (1987).

April 4, 1988

Suggested amendment on House Bill 2951

Starting on line 32 for which the offender shall:

(a) be fined not less than \$1000.⁰⁰

(b) not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment; and

(c) be required, as a condition of any grant of probation, suspension or reduction of sentence, parole or other release, to enter into and successfully complete and alcohol and drug safety action program as provided in K.S.A. §-1008 and amendments thereto, or both the education and treatment programs

Hearing on HB 2951 & 2952, . 11 4, 1988
Senate Judiciary Committee

Ric d Taylor
KANSANS FOR LIFE AT ITS BEST!

Drinking and driving must become socially unacceptable. That is the goal of our NATIONAL COMMISSION AGAINST DRUNK DRIVING. Education and law must be used to reach that goal.

Their Newsletter last Fall recommeded 19 countermeasures states should adopt in an effort to reduce the number of persons who drink before they drive. Kansas was in the NO column on seven. Our Board of Directors wrote a letter to Governor Hayden asking if he would help put Kansas in the YES column for all 19. He responded by supporting all but the Dram Shop. These two measures are part of the Governor's legislative program.

The number one violent crime in the United States is injury and death caused by persons who drink before driving. The drinking driver is deadly because he does not realize his judgment is impaired. Wichita Eagle-Beacon headlines proclaimed, IT'S CRAZY TO EXPECT CRAZY PERSON TO KNOW HE'S CRAZY. The entire article was on alcohol.

It is impossible to pass laws too tough on the drinking driver. The penalty must be so swift, sure, and severe that a person will choose not to drink before driving or will wait one hour per drink before driving. Prevention, not punishment, is our goal. May the day come when drinking drivers who kill will be charged with murder.

I have been critized for "bugging Senate Committee members" in an effort to bring anti-drinking-driving measures to the Senate floor. If all Senators were truly dedicated to reducing the number of blood splattered beer cans in crushed automobiles, I would not need to bug committee members.

I enjoy watching TV as Kansas or Kansas State play basketball. I enjoy it more when they win and hope they win tonight, but if they lose, it is just a game. No one dies.

Lobbying is not a game for me. Your vote on every alcohol related issue means life or suffering or death for some Kansan.

A Senator not supporting tough drinking driving measures told me last week he had not received one call from home asking him to vote YES. Very firmly I looked him in the eye and said I speak for your constituents who want safer highways. I'll tell the people back home how you voted on these measures. I speak for the dead who can not speak for themselves.

No doctor or treatment center "cures" alcoholism. Recovery takes place only when the alcoholic chooses not to drink. Kansas is a leader with laws that discourage drinking and driving. But let us not be satisfied until we can proclaim, NO ONE IS KILLED OR INJURED IN KANSAS BY DRINKING DRIVERS, BECAUSE DRINKERS HERE CHOOSE NOT TO DRINK BEFORE DRIVING OR THEY WAIT ONE HOUR PER DRINK BEFORE DRIVING.

I do not want lawmakers mad at me, yet my concern for the dead and injured caused by drinking drivers compels me to say this. Some Senators are opposed to stiff DUI laws because they fear being caught by the very law this legislature may pass.

Please vote YES on these and all measures that make our highways safer. Please have more sympathy and concern for the dead and injured than you have for the drink-ing criminal behind the wheel.

Respectfully yours,
Richard Taylor

Att. IV

KANSANS FOR LIFE AT ITS BEST!

Rev. Richard Taylor, Box 888, Topeka, Kansas 66601

Phone (913) 235-1866 Office 1273 Harrison
(3 Blocks South of Statehouse)



October 20, 1987

A Proud Land

Governor Mike Hayden
The Statehouse
Topeka, Kansas 66603

Dear Governor Hayden,

We know the affairs of state rest heavy on your shoulders. We are numbered with the thousands of Kansans who pray that you will have the wisdom and strength to do what is best for the heart-state of America.

We regret adding another letter to your heavy load of mail. But highway safety is a very important issue. The enclosed letters indicate our goal when the legislature meets in January.

We are asking every automobile insurance agent in Kansas, every group concerned for highway safety, the Kansas Highway Patrol, and thousands of concerned citizens to support this effort to place Kansas in the YES column of all 19 areas on the CHECKLIST OF STATE DRUNK DRIVING COUNTERMEASURES as adopted by the NATIONAL COMMISSION AGAINST DRUNK DRIVING.

Lawmakers who voted to promote the sale of our most abused drug by the drink in public places said they would give full support to laws that would encourage persons not to drink before driving. These seven areas of legislation will give them an opportunity to prove their sincerity.

Will you help us in the seven areas where Kansas falls short in state drunk driving countermeasures? Will you join this GLADD campaign, a campaign for Good Laws Against Drinking Drivers? Dealers in this deadly drug will oppose these countermeasures, but thousands of concerned drinkers and non drinkers will praise you for making these seven areas a part of your legislative agenda to help bring life at its best for all Kansans.

Respectfully yours,

A handwritten signature in cursive script that reads "Charles W. Wright".

Charles W. Wright
Chairman of the Board

A handwritten signature in cursive script that reads "Richard Taylor".

Richard E. Taylor, Jr.
President

(This letter was adopted at the Fall Meeting, Board of Directors, KANSANS FOR LIFE AT ITS BEST, Grace United Methodist Church, Topeka, Kansas.)

"Of our political revolution of 1776 we are all justly proud," said Abraham Lincoln on Washington's birthday in 1842. He went on to say "how proud the title of that land" where persons declare their freedom from alcoholic beverages because they "shall find a stronger bondage broken, a viler slavery manumitted, a greater tyrant deposed. . . perfect liberty!" With per-person consumption at nearly half the national average, thousands of Kansans enjoy that perfect liberty. Concerned users and non-users are united in this R-E-A-L effort to prevent alcoholism, highway tragedy, and other suffering caused by our most abused recreational drug.

Rehabilitation — Help alcohol-dependent persons adjust to life without the drug.

Education — Inform children, youth & adults of effect of alcohol on mind & body.

Amount — Encourage persons to be non-users and encourage users to use less.

Law — Pass and enforce laws that reduce consumption and suffering.

STATE OF KANSAS



OFFICE OF THE GOVERNOR

State Capitol
Topeka 66612-1590
(913) 296-3232

Mike Hayden Governor

October 30, 1987

Rev. Richard Taylor
Box 888
Topeka, KS 66601

Dear Reverend Taylor:

I appreciate your recent letter calling to my attention the National Commission Against Drunk Driving checklist of state drunk driving countermeasures. I am sure you know that I continue to be concerned about substance abuse issues which most definitely includes drunk driving.

I have asked Galen Davis my Special Assistant on Drug Abuse, to review the seven areas of the checklist that are not covered by Kansas statutes. Galen will be working with D.E. Robinson, Traffic Safety Director for the Kansas Department of Transportation and Nancy Lindburg of the Attorney General's Office to evaluate the need for additional drunk driving legislation and to make suggestions for introducing appropriate new legislation.

Thank you for providing me the information. Your work to curb drunk driving and related tragedies is appreciated. Together, we must all work to prevent and reduce alcohol and other drug abuse.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mike Hayden".

MIKE HAYDEN
Governor

MH:GD:np

Temperance group will press anti-drunken driving legislation

TOPEKA (AP) — The state's temperance organization announced Wednesday that it plans to push for a package of legislation designed to strengthen the state's laws against drunken driving.

The group, Kansans for Life at Its Best, has started a "Good Laws Against Drinking Drivers" campaign, aimed at gaining the 1988 Legislature's approval of seven measures after it convenes in January. The group sent a letter to Gov. Mike Hayden on Tuesday, asking for his support.

"We are numbered with the thousands of Kansans who pray that you will have the wisdom and the strength to do what is best for the heart-state of America," the letter said. "We are asking every automobile insurance agent in Kansas, every group concerned for highway safety, the Kansas Highway Patrol, and thousands of concerned citizens to support this effort."

THE REV. Richard Taylor, president of the group, said it wants to make the state's highways safer by reducing the amount of drunken drivers on the roads. His group also led the opposition last year to an amendment to the Kansas Constitution that would allow the sale of liquor by the drink in public restaurants, citing some of the same concerns.



Rev. Taylor

"The law must be so swift, so sure and so severe that the drinker will say, 'Tonight, I'm going to drive home. I can't drink,'" Taylor said. "That's the only way to stop drinking drivers."

Kathy Peterson, Hayden's press secretary, said the governor had received the group's letter and is having his staff study its recommendations.

TAYLOR SAID the proposals his group has are in effect in other states, according to statistics compiled by the National Commission Against Drunk Driving. The Kansas group's proposed legislative package contains laws that would:

— Automatically suspend the driver's license of a person who refused to take a blood-alcohol test or had failed such a test, without a court hearing. Twenty-two states currently have such a law.

— Make liquor store owners and tavern and club owners liable for damages in an accident involving a drunken driver if they sold alcohol to him while he was intoxicated. Nineteen states have such a "dram shop statute."

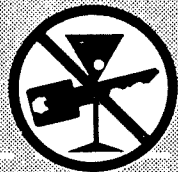
— Require drunken drivers involved in accidents pay restitution to their victims, either directly or through a special state fund. Only eight states do not currently have such a law.

— Mandate that courts tell juries they should consider the impact of a drunken driver's actions on a victim in a civil or criminal trial. Fifteen states have such laws.

— Making vehicular homicide or causing the death of another person while driving under the influence a felony. Twenty-seven states have such a law.

— Suspend or revoke for 90 days the license of a person convicted of driving under the influence for the first time. Thirteen states have such a law.

— Withdraw a provisional license of a young person who failed or refused to take a blood-alcohol test. Twenty states currently have such a law.



MADD

Mothers Against Drunk Driving

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My name is Wanda Stewart and I have been active in the state with issues concerning drinking and driving for the last four years. I travel across the state making presentations at town meetings, community organizations, and schools. I have served on various state boards concerned with alcohol and drug abuse and highway safety. I have been serving as the state coordinator for MADD since last May. I have recently been appointed to the Attorney General's Victims' Rights Task Force. In my travels and work with victims and non-victims I feel it is the mood of the public to deal with drunk driving vigorously.

Mothers Against Drunk Driving was started to address the injustice created by drunk driving and to be the voice of the victim. Our goals are threefold:

To educate the public about the seriousness of drinking and driving.

To ease the pain of families by providing support services.

To work for enforcement of present laws and work to support future legislation concerning Driving under the influence.

Fully 30% of those convicted of a DUI crime are repeat offenders. Obviously our criminal justice system has some shortcomings in guaranteeing swift and sure punishment as an adequate deterrent to these offenders. That is why MADD insists on better laws, stringent enforcement, and tougher prosecution so that our streets and highways can be made safe.

Kansas MADD was established in late 1985 from representatives of local chapters. Because of the five local chapters Kansas MADD stands with a membership of 400 and an alliance of thousands. With an established MADD state office in the near future we look to triple in size within a year.

MADD is concerned with the individual who chooses to drink and drive which takes away the future options of innocent victims. In 1981 our family became one of those victims when we lost our $3\frac{1}{2}$ month old son, Scott.

Att. V

Before you are names of those victims from 1985-86 alone due to drinking and driving. In 1985 there were 240 alcohol-related fatalities in Kansas and 224 in 1986. The stories are sad and senseless and the only element they have in common is an intoxicated person behind the wheel of a car.

With the focus on fatalities we sometimes forget the thousands of injuries each year in Kansas caused by drinking and driving. Injuries which require more than just a band-aid. I was thankful I received only a brain concussion, hip dislocation, 3 pelvis fractures, rib fractures and facial lacerations. There are so many who have been less fortunate.

Drinking and driving should be a concern of everyone. It holds such a potential danger for everyone unless you are never ever out on the road. One death or injury due to drinking and driving is one too many, especially if it involves your family. Someone else's Scott is on the road everyday.

MADD and citizen groups like ours look to you to make improvements with our current system. We hope you continue to make drinking and driving a priority. It is law enforcement who make the arrest, prosecutors who should act on them and judges who hear the case. It all starts here with legislatures who look at the system for shortcomings and address them. I feel positive action on these DUI bills would make great strides towards the future safety of Kansans. Let's take the message back to Kansans that drinking and driving will not be tolerated---for their sake as well as our own.

I have been told in years past that the legislature is tired of hearing about drinking and driving. This is not an adequate answer, especially to victims of DUI. You will continue to hear from us as long as we have so much destruction caused by it. The first step towards solving a problem is to begin.

In 1981 when we lost Scott I was off the road and feeding Scott. I heard nothing or saw nothing before the crash but she didn't see us either-hitting us full force from behind. She was merely charged with DUI, received a \$100 fine and a driver license's restriction to drive to and from college-clear across Kansas-exactly what she was doing the day of the crash. I would like to think that that type of prosecution and sentencing no longer happens but that is not necessarily the case.

Before you is a typical stuffed toy-a baby's favorite toy. A stuffed animal that will no longer get the love and attention from a child because of the senseless decision of an intoxicated person to drive. Some things like this giraffe could be replaced---a life cannot.

The day the 18 year old made the decision to drink and drive I am sure she didn't intend to kill or hurt anyone but the reality of it is when someone decides to mix alcohol or other drugs with driving it increases the odds of a senseless tragedy happening.

We do not tolerate or excuse someone's action such as in rape, robbery, or incest while under the influence of alcohol or drugs. Yet, actions causing injury or death while driving under the influence aren't looked at in the same light. Victims of alcohol-related crashes want to see some changes. The introduction of several DUI bills this year are truly a start. Previous legislation being introduced has been labeled as severe---I say on the contrary. Other countries' handling of DUI's may be labeled severe but not ours. MADD and fellow advocates are not after revenge but we are for justice. Quote: "Victims aren't asking for a pound of flesh but a measure of justice. Justice does not bring one's child back, but it is the closest thing to what is right."

The price of becoming a DUI victim is high and will remain high until all Kansans put the consequences of such actions in proper perspective. By mov-

ing vehicular homicide to a Class D felony would help. Currently causing death under the influence can be either a class D felony up to 5yrs. or class E felony up to 1 yr. in jail. Too often in the state of Kansas these cases are plea bargained down to the class E felony. Other class E felonies

include:

- K.S.A. 21-3701 Theft of more than \$150.00
- K.S.A. 21-3704 Theft of services more than \$150.00
- K.S.A. 21-3707 Worthless checks for more than \$150.00
- K.S.A. 21-3720 Property damage more than \$150.00
- K.S.A. 21-3729 Unlawful use of Credit card more than \$150.00
- K.S.A. 21-3717 Possession of burglary tools.

When comparing a loss of life to the above crimes one can see we need to put the crime in proper perspective. A victim is victimized tragically by the DUI offender then again and again by our current system.

MADD is the voice of the victim. Quoting from the final report published on the President's Task Force on Victims of Crime: "Victims have discovered that they are treated as appendages of a system appallingly out of balance. They have learned somewhere along the way, the system has lost track of the simple truth that it is supposed to be fair and to protect those who obey the law while punishing those who break it. Somewhere along the way, the system began to serve lawyers, judges, and defendants, treating the victim with institutionalized disinterest." Therefore MADD and other victim advocates feel the victim, in every criminal prosecution, should have the right to be present and to be heard at all critical stages of judicial proceedings. It is a very important part of the process for victims to be able to communicate how a particular crime has affected them. We too support implementing the use of victim impact statements. Victims and citizens of Kansas do benefit by seeing a DUI driver who has caused a crash, injury or death spend time in jail. Likewise we will all benefit when the criminal justice system can also hear the voice of the victim.

Thank you for allowing ^{me} this time to speak with you today.

Questions?