

Approved 2/2/88 Date _____

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by Sen. Bill Morris at _____
Chairperson

9:00 a.m./~~p.m.~~ on January 26, 1988 in room 254-E of the Capitol.

All members were present ~~except~~.

Committee staff present:

Hank Avila, Legislative Research Department
Ben Barrett, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
Louise Cunningham, Committee Secretary

Conferees appearing before the committee:

Sen. Dave Kerr
Gene Johnson, Kansas Community Alcohol Safety Action Project Coordinator's Association.
Elizabeth Taylor, Kansas Association of Alcohol and Drug Program Directors
Ruth N. Meserve, Kansas Coalition for Drug Free Driving
Bruce Beale, Kansas Alcoholic Safety Project, KDOT
Andrew O'Donovan, SRS
Dave E. Johnson, Director, Kansas Bureau of Investigation
Dr. Roger Carlson, Kansas Department of Health and Environment
Rev. Richard Taylor, Kansas Life at Its Best
John Brax, Kansas Life at Its Best

Hearing on S.B. 444 - Issuance of Class A and Class B Drivers Licenses

Sen. Dave Kerr said instruction permits have been issued for many years by the Department for class A and class B licenses. A closer reading of the statutes revealed they cannot issue these permits legally. S.B. 444 creates the authority for instruction permits. It would allow them to do legally what they had been doing until they read the statutes. Copies of the statute were distributed. (Attachment 1). KSA8-239.

A memorandum was submitted by Harley Duncan, Secretary, Department of Revenue, expressing the necessity for S.B. 444. A copy of his statement is attached. (Attachment 2).

Hearing on S.B. 484 - Requiring tests for alcohol and drugs in the blood of certain victims of fatal accidents.

Sen. Doyen said this testing was done in some areas and not in others. This bill would require the testing in fatal accidents and statistics would show how many accidents were caused by alcohol and drugs.

Gene Johnson, Kansas Community Alcohol Safety Action Project Coordinator's Association, said they support the bill because it would give them better documentation of those people who are fatally injured. A copy of his statement is attached. (Attachment 3).

Elizabeth Taylor, Kansas Alcohol and Drug Project Director, said they support this bill.

Ruth Meserve, Kansas Coalition for Drug Free Driving, said they support this bill and all fatality accidents should involve testing for alcohol. The law officer is usually busy attending to seriously injured persons and his attention may be diverted. A copy of her statement is attached. (Attachment 4).

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,
room 254-E, Statehouse, at 9:00 a.m./~~p~~ on January 26, 19 88

Bruce Beale, Kansas Alcoholic Safety Project, KDOT, said these statistics should be kept in the state. They really don't know if some of their programs are working. There is a lack of statistical information. He said this would be used for evaluation measures only.

Andrew O'Donoven, SRS, said they support this bill because it would give accurate information in fatal accidents.

Dave Johnson, Director, KBI, submitted a Memorandum dated January 26, 1988 regarding the fiscal impact on the KBI Toxicology Section. A copy of this Memorandum is attached. (Attachment 5). He said they were not sure if they would be asked to do the tests but had been requested to prepare the Memorandum regarding costs in case they were.

Dr. Roger Carlson, Department of Health and Environment, spoke in support of the bill. He did have a suggested amendment which is contained in his statement. A copy of his statement is attached. (Attachment 6).

Rev. Richard Taylor, Kansans for Life at Its Best, spoke in support of the bill and said we should be tough on drunken drivers. HE said there is too much concern for the driver and not enough for the victim.

John Brax, Kansans for Life at Its Best. said he was a recent student at KU and worked with health officials and felt this was a good bill to help assess the problems.

On a motion from Sen. Doyen and a second from Sen. Thiessen the Minutes of January 21 and 22 were approved. Motion carried.

Meeting was adjourned at 10:00 a.m.

DATE: 1-26-88

ROOM: 254-E

GUEST REGISTER
SENATE

TRANSPORTATION AND UTILITIES COMMITTEE

NAME	ORGANIZATION	ADDRESS
Jerry Conrad	KGIS	Topeka
DICK TAYLOR	LIFE AT ITS BEST	TOPEKA
Jon Brax	"	"
Bruce Beak	Ks. Alcohol Safety Action	Lawrence
Gene Johnson	Ks. Am. ASAP Coordinator Ass	Topeka
Ruth Mueser	Ks. Coalition for Drug-Free Dining - Prairie Valley, Ks	"
Don Mueser	Local	"
Jany K. Hulitt	KS. DEPT. HEALTH & ENVIRON.	TOPEKA
Roger Carlson	Ks Dept. Health & Envir	Topeka
Kon Jones	K.B.T	Topeka
Dave Johnson	KBF	Top
Rat Wiechman	Ks Automotive Dismantlers & Recyclers	Topeka
KEITH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS	TOPEKA
Tom Whitaker	Ks. Motor Carriers Assn	Topeka
M. Haaver	Cum-Dyn	Topeka
Barb Tremert	KPOA	"
ANN FRERKING	INTERN	"
Elizabeth Taylor	Ks Alca - Drug Prog Director	"
Richard Dame	BLE	Houston
LT. BILL JACOBS	KHP	TOPEKA
Ron Calbert	U. J. U.	NEWTON
Andrew O. Daaven	SRS/ADAS	TOPEKA
Larry Hinton	SRS/ADAS	Topeka

CASE ANNOTATIONS

1. Insurance policy held inapplicable to driver where driver without special chauffeur's license and under age; subrogation. *Prickett v. Hawkeye-Security Insurance Company*, 282 F.2d 294, 298.

8-239. Instruction permits and temporary licenses. (a) Any person who is at least fourteen (14) years of age may apply to the division for an instruction permit. The division may in its discretion, after the applicant has successfully passed all parts of the examination other than the driving test, issue to the applicant an instruction permit which shall entitle the applicant while having such permit in his or her immediate possession to drive a passenger car upon the public highways for a period of six (6) months subject to the restrictions herein contained. The division may issue an instruction or restricted instruction permit to any person who is at least fourteen (14) years of age and under the age of sixteen (16) years only upon the written application of a parent or guardian of the minor. **The one having the instruction permit may operate a passenger car at any time when accompanied by an adult who is the holder of a valid class A, B or C driver's license, who has had at least one (1) year of driving experience and who is occupying a seat beside the driver.** Any person who is at least fourteen (14) years of age may apply for an instruction permit to operate a motorcycle either separate from or in conjunction with an instruction permit to operate a passenger car, and such permit shall entitle the permittee to operate a motorcycle if he or she is accompanied by an adult who is the holder of a valid class D driver's license and who is riding a motorcycle in the general proximity of the permittee.

(b) The division upon receiving proper application may issue in its discretion a restricted instruction permit effective for school year or for a more restricted period to an applicant who is at least fourteen (14) years of age and who is enrolled in a driver-education program which includes practice driving and which is approved by the division, even though the applicant has not reached the legal age to be eligible for a driver's license. Such instruction permit shall entitle the permittee when said person has such permit in his or her immediate possession to operate a passenger car only on a designated highway or within a designated area but only when an approved in-

structor is occupying a seat beside the permittee or when such permit has been endorsed by an approved instructor to operate a passenger car with a parent or guardian who is the holder of a valid class A, B or C driver's license, who has had at least one (1) year of driving experience and who is occupying a seat beside the driver.

(c) The division, in its discretion, may issue a temporary driver's permit to an applicant for a classified driver's license permitting the applicant to operate a motor vehicle within such classification while the division is completing its investigation and determination of all facts relative to such applicant's right to receive a driver's license. The division may issue such a temporary driver's permit to any applicant whose employer certifies that such permit is necessary to complete seasonal agricultural operations of the employer. Any such temporary driver's permit issued pursuant to this subsection shall be in the immediate possession of the permittee while operating a motor vehicle, and it shall be invalid on the date specified thereon, which shall not be more than fifteen (15) days after its issuance, or when the applicant's license has been issued or for good cause has been refused.

History: L. 1937, ch. 73, § 6; L. 1949, ch. 104, § 10; L. 1959, ch. 49, § 6; L. 1970, ch. 50, § 1; L. 1971, ch. 19, § 1; L. 1972, ch. 24, § 1; L. 1975, ch. 36, § 12; Jan. 1, 1976.

Research and Practice Aids:

Automobiles—136.

C.J.S. Motor Vehicles § 153.

Am. Jur. 2d Automobiles and Highway Traffic § 105.

8-240. Instruction permits and drivers' licenses; application fees; examination tests; reexamination, fees; drivers' records; license and permit fees; penalties. (a) Every application for an instruction permit shall be made upon a form furnished by the division of vehicles and accompanied by a fee of \$.50. Every other application shall be made upon a form furnished by the division and accompanied by an examination fee of \$3 and by the proper fee for the license for which the application is made. If the applicant is not required to take an examination the examination fee shall not be required. The examination shall consist of three tests, as follows: (1) Vision; (2) written; and (3) driving. If the applicant fails the vision test, the applicant may have correction of vision made and take the vision test again without



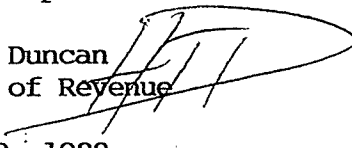
KANSAS DEPARTMENT OF REVENUE

Division of Vehicles

Robert B. Docking State Office Building

Topeka, Kansas 66626-0001

TO: Senate Transportation Committee

FROM: Harley T. Duncan
Secretary of Revenue 

DATE: January 22, 1988

RE: SENATE BILL NO. 444

The Department of Revenue supports Senate Bill No. 444. This bill is necessary because it was discovered that the Division of Vehicles did not have statutory authority to issue class A and B driving permits. To do so without express authority could result in a lawsuit against the State of Kansas if the driver were to be involved in an accident. This bill is also needed to permit the division to meet the requirements of the Commercial Motor Vehicle Safety Act of 1986.

HTD/bmh

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TESTIMONY IN SUPPORT OF SENATE BILL NO. 484
Senate Transportation and Utilities Committee
January 26, 1988 - 9:00 a.m.

Good morning Mr. Chairman, members of the Senate Transportation and Utilities Committee. I am Gene Johnson and I represent the Kansas Community Alcohol Safety Action Project Coordinator's Association. We are an association of some 25 members who prepare the evaluations and monitor the progress of D.U.I. offenders for all of the judicial districts in the state of Kansas.

As part of our legislative program for the calendar year of 1988, we support Senate Bill 484 for the purpose of giving us better documentation for those people who are fatally injured, either in a vehicle crash or a boating accident. By using this method in determining the blood alcohol level or the presence of drugs in the deceased person gives us concrete evidence that alcohol is a factor in a good number of our traffic and boating accidents.

In keeping all records of these fatalities at a central place where the Secretary of Health and Environment allows us to evaluate all fatalities involving alcohol and drugs, such evaluation could give us means of intervention to control such fatalities in the future.

We, of the association, totally support this type of legislation, in order to give us more information available for evaluation and research purposes.


Gene Johnson
Legislative Liaison

GJ/1kt

ATT. 3
T&U
1/26/88

Kansas Coalition for Drug-Free Driving

P.O. Box 58093

Topeka, KS 66658

913-286-0555

KANSAS COALITION FOR DRUG-FREE DRIVING

TESTIMONY ON SENATE BILL 484

The Kansas Coalition for Drug-Free Driving is a coalition of chapters of Mothers Against Drunk Driving (MADD), ASAP organizations, and others to work statewide on the problem of drunk driving.

When a fatal vehicle accident occurs in Kansas, the decision of whether it was alcohol-related is not based on factual evidence. It is based on the law enforcement officer in charge of the accident scene deciding whether, in his opinion, the accident was alcohol-related or not. It is simply one question on the accident report.

It is certainly not the fault of the officer if it is not apparent to him that the accident was alcohol-related. There may be no open containers for him to see. The death may prevent him from making any judgment based on behavior. Other factors, such as seriously injured persons, may be diverting his attention.

As the law currently is in Kansas, an alcohol-related fatal accident may occur without factual evidence of the importance of alcohol. Innocent people are being killed and no one knows whether alcohol was involved or not. This is neither fair nor right.

All fatality accidents should involve testing for alcohol. The courts and the public should know when alcohol is involved in a fatal accident. This knowledge should be based on a blood alcohol test rather than unfairly placing the burden on the law enforcement officer making a decision in a very difficult situation. Consequently, the Coalition supports and asks you to support Senate Bill 484.

Ruth N. Meserve
KANSAS COALITION FOR
DRUG FREE DRIVING

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1/26/88



DAVID E. JOHNSON
DIRECTOR

KANSAS BUREAU OF INVESTIGATION

DIVISION OF THE OFFICE OF ATTORNEY GENERAL
STATE OF KANSAS
1620 TYLER
TOPEKA, KANSAS 66612-1837
(913) 232-6000



ROBERT T. STEPHAN
ATTORNEY GENERAL

M E M O R A N D U M

TO: Director Johnson
FROM: Jill Crumpacker *JC*
DATE: 26 January 1988
RE: FISCAL IMPACT OF SB 484 ON KBI TOXICOLOGY SECTION

The fiscal impact of SB 484 on the KBI Toxicology Section is relatively minimal with respect to testing blood for *alcohol*. However, there will be a significant impact with respect to proposed testing of blood for *drugs*.

Currently, the KBI provides analyses for *alcohol* in the impaired driver. This same type of analysis would be applicable for victims of fatal accidents. Concerning testing for *drugs* in blood, the KBI possesses the *technical* capability for all forensic analyses; however, the *instrumental* capabilities are virtually nonexistent with respect to testing and quantitation of blood levels for *THC-metabolite, cocaine metabolites, amphetamines, and benzodiazepines (valium-type drugs)*. Although the presence of these drugs may be ascertained from analysis of urine; blood is required for quantitation.

In preparing a projected fiscal impact of SB 484 on the Toxicology Section, I used the Highway and Traffic Statistics compiled by our KBI SAC Unit for the year 1987. These "graphs" are attached to this memo. According to these statistics, the number of *motor vehicle accidents* in 1987 was up 10% over 1986. The number of projected *motor vehicle deaths* for 1987 is 505.

The fiscal impact with respect to testing blood for *alcohol* would consist of a relatively minimal expenditure (\$2500.00) to provide additional blood tubes and mailing containers to Kansas Law Enforcement Agencies. This number takes into the account the fact that the KBI has already analyzed some of the 500 fatality accidents for alcohol level.

The fiscal impact with respect to testing blood for *drugs* and quantitating drug-levels in blood does not assume that the KBI has analyzed any of the 500 fatality accidents for drug levels in blood. Projected expenditures are as follows:

FIRST YEAR	SUBSEQUENT YEAR(S)
CAPITAL EQUIPMENT: \$ 90,000.00	CAPITAL EQUIPMENT: \$ 5,000.00
SALARY: 32,000.00	SALARY: 32,000.00
SUPPLIES: 20,000.00	SUPPLIES: 20,000.00
\$142,000.00	\$ 57,000.00
CASES: 500	CASES: 500
COST PER CASE: \$284.00	COST PER CASE: \$114.00

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1/26/88

A first-year expenditure for capital equipment is required to provide the KBI with the instrumental capabilities necessary for detecting and quantitating drugs in blood (specifically, *THC-metabolite*, *Cocaine metabolites*, *Amphetamines*, and *Benzodiazepines*). This equipment would include:

- one GCMS (Gas Chromatograph-Mass Spectrometer) \$70,000.00
- one HPLC (High Performance Liquid Chromatograph) \$20,000.00

In subsequent years, this expense decreases dramatically to include only yearly maintenance costs (estimated at \$5000.00/year).

One Criminalist II is required to provide timely and expert analysis of specimens. Due to the nature of the required scientific analyses, the sophisticated equipment, and the likelihood of courtroom testimony, the expertise and maturity desired will not be available at the Criminalist I level.

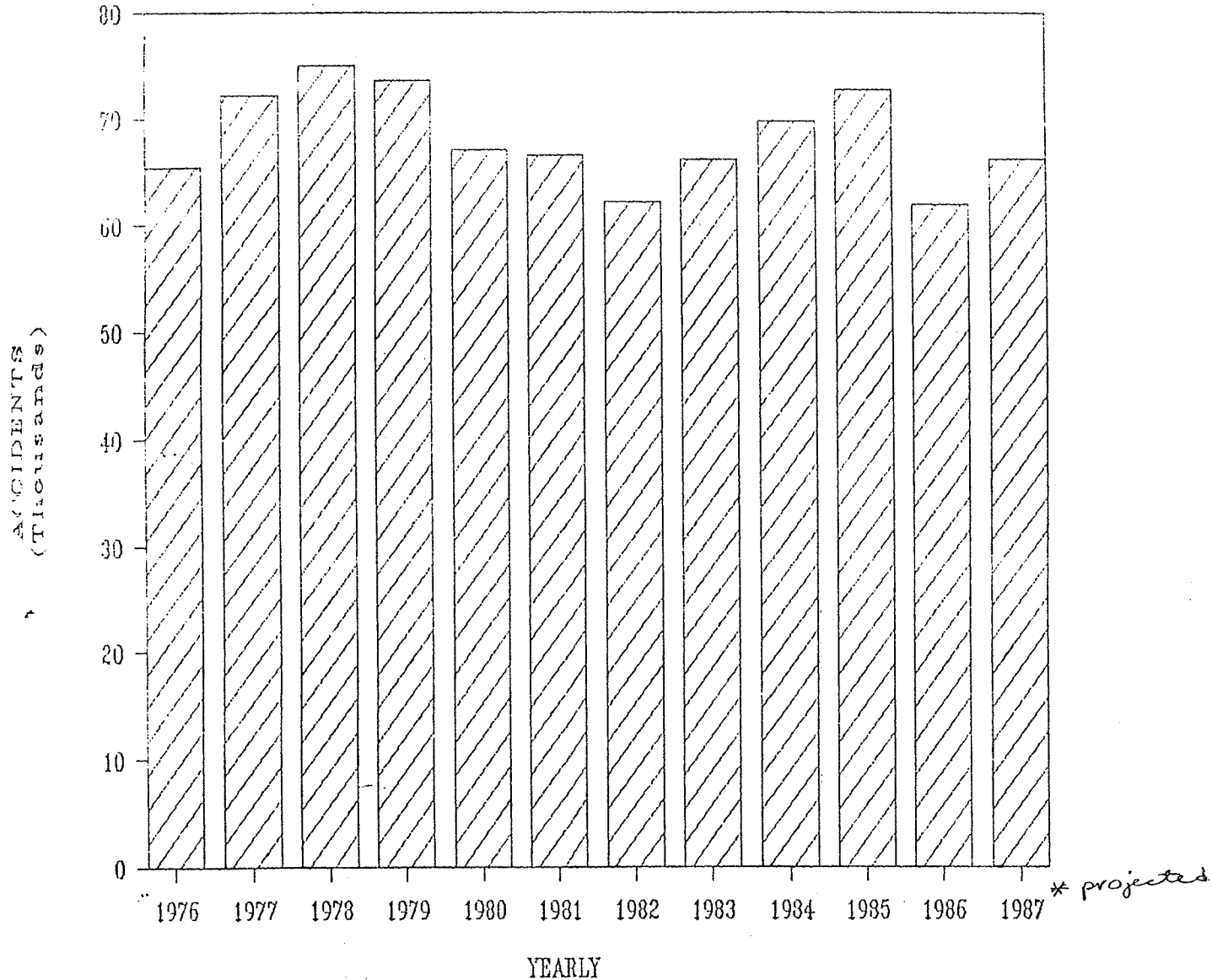
The costs of a GCMS and an HPLC may conceivably be spread-over other pending and potential legislative issues (such as Parole Urine Drug Screens or Employee Drug-Testing). However, Supplies costs and requested Personnel address this bill only.

Finally, the KBI is the primary provider of forensic toxicological services to the State of Kansas. The forensic laboratory services addressed in SB 484 are currently being provided in part by the KBI Toxicology Section. The KBI already possesses the technical capabilities and is lacking only with respect to instrumental capabilities and an adequate level of staffing to provide further toxicological services. By satisfactorily addressing these needs, the long-range fiscal impact to the State of Kansas would be a fiscal savings by an avoidance of possible duplication of analytical services and personnel or fragmented analytical services and personnel with respect to testing of blood specimens from drivers (either "living but impaired" or "fatality victims") for alcohol and drugs.

cc: John D. Pinegar
Ron Jones

FIGURE 1

MOTOR VEHICLE ACCIDENTS TREND



TREND LEGEND**

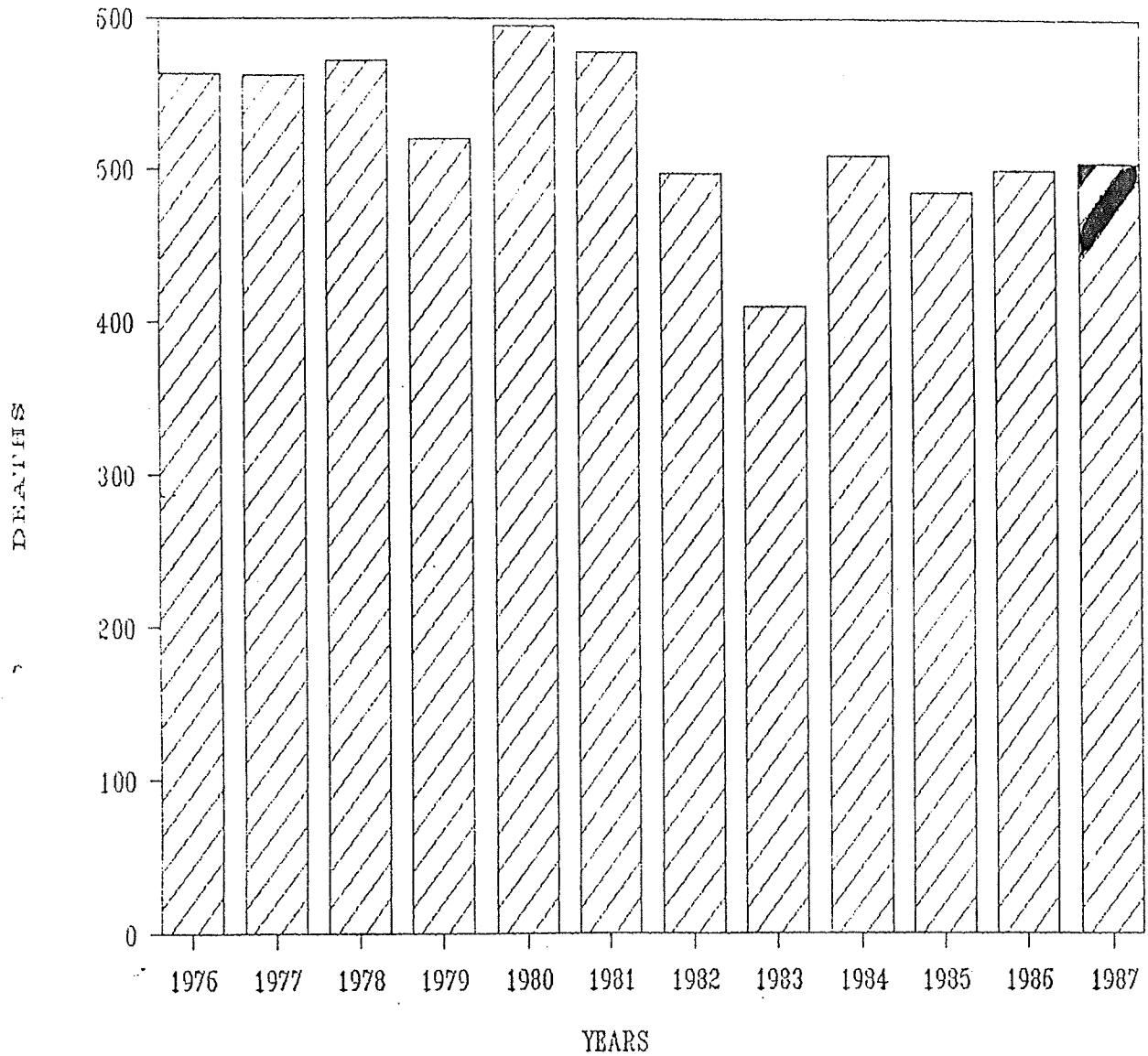
Year	Number	%Change	Rate Per 1,000
1976	65,385	+ 5.3	28.1
1977	72,127	+10.3	30.8
1978	74,923	+ 3.9	31.8
1979	73,630	- 1.7	30.9
1980	67,051	- 8.9	28.2
1981	66,534	- 0.8	28.1
1982	62,263	- 6.4	26.3
1983	66,173	+ 6.3	27.8
1984	69,779	+ 5.5	28.8
1985	72,683	+ 4.2	29.7
1986	61,984	-14.7	25.2
1987*	68,362	+10.3	27.8

* projection

**"Year" denotes year of occurrence;
"Number" denotes number of accidents;
"% Change" denotes percent of change
from previous year; and "Rate per
thousand" denotes per thousand
population.

FIGURE 2

MOTOR VEHICLE DEATHS TREND



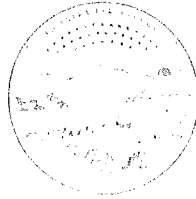
TREND LEGEND**

Year	Number	%Change	Rate Per 1,000
1976	563	+ 8.9	0.24
1977	562	- 0.2	0.24
1978	572	+ 1.8	0.24
1979	520	- 9.1	0.22
1980	595	+14.4	0.25
1981	578	- 2.9	0.24
1982	498	-13.8	0.21
1983	411	-17.5	0.17
1984	510	+24.1	0.21
1985	486	- 4.7	0.20
1986	500	+ 2.9	0.20
1987*	505	+ 1.0	0.20

* projection

**"Year" denotes year of occurrence;
 "Number" denotes number of deaths;
 "% Change" denotes percent of change
 from previous year; and "Rate per
 thousand" denotes per thousand
 population.

STATE OF KANSAS



DEPARTMENT OF HEALTH AND ENVIRONMENT

Forbes Field
Topeka, Kansas 66620-0001
Phone (913) 296-1500

Mike Hayden, *Governor*

Stanley C. Grant, Ph.D., *Secretary*
Gary K. Hulett, Ph.D., *Under Secretary*

Testimony Presented to

Senate Transportation and Utilities Committee

By

The Kansas Department of Health and Environment

Senate Bill 484

National statistics have clearly shown that operator impairment by alcohol or drugs is a frequent contributing factor in many motor vehicle fatalities. DUI drivers on Kansas public highways represent a significant public health issue as well as an important law enforcement issue.

The breath alcohol training and certification program at the Kansas Department of Health and Environment currently includes 80 Kansas law enforcement agencies and 900 certified instrument operators who provide court defensible analyses for the prosecution of more than 10,000 DUI suspects arrested in Kansas each year. In 1983, 92% of subjects arrested for DUI were found to have blood alcohol levels at or above the per se 0.1%. However, in subsequent years, the percentage of DUI subjects measuring at least 0.1% blood alcohol has steadily decreased to the current level of 86%. These data lead to the concern that increasing numbers of Kansas vehicle operators may be impaired by non-alcohol drugs for which they are not now tested. At the present time, there is no comprehensive Kansas data base of information on this issue.

This bill does recognize the absolute importance that laboratory tests be performed in a manner which would assure the quality of test results. Certification of Kansas drug screening laboratories, according to standards of the National Institute of Drug Abuse, would accomplish this goal. However, we recommend an amendment to SB484 to include the provision that all vehicle operators who are involved in fatality accidents be required to submit to laboratory tests for alcohol and for drugs of abuse. With this amendment, we are supportive of SB484.

Presented by:

Dr. Roger Carlson
1/26/88

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