

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Representative Kathleen Sebelius at
Chairperson

1:30 ~~a.m.~~/p.m. on Thursday, March 28, 1991 in room 526-S of the Capitol.

All members were present except:

Representative ARthur Douville - Excused

Committee staff present:

Mary Galligan - Kansas Legislative Research Department

Lynne Holt - Kansas Legislative Research Department

Mary Torrence - Office of the Revisor

Connie Craig - Secretary to the Committee

Conferees appearing before the committee:

HB 2581 - PROPONENT - Representative Kerry Patrick, 28th District, Kansas

SB 144 - PROPONENT - Chuck Simmons, Department of Corrections, Kansas

Chair Sebelius called the meeting to order.

HB 2581

Representative Kerry Patrick appeared before the Committee as a sponsor of HB 2581. He explained that because Room 449 was vacant this year, and seeing Representative Hochhauser each day in Appropriations Committee made him think that legislators with small children might appreciate a legislative nursery during the Session in that room. He also added that Representative Hochhauser and Representative Wagle had indicated to him their support.

Committee Discussion:

1. One Committee member asked Representative Patrick what the square footage of the room is, and according to child care regulations, how many children will the room hold. Representative Patrick did not know the answer.
2. One Committee member commented that regulations required 449 square feet per child is required.
3. One Committee member asked the question if the bill could be amended to allow legislators to rotate babysitting duty.
4. One Committee member asked if this would be more appropriately handled by L.C.C., and if this was the first time by statute that the Legislature had ever set aside space.
5. One Committee member asked if this would be a first come first serve basis, and if there had been a count of how many children are not of school age. The Committee member made the point that there are a number of men that from time to time are having to care for their children that might utilize this service.
6. Representative Patrick stated that there had been a cost benefit analysis, but did not know the fiscal note.
7. One Committee member stated that regulations prevent putting children on the fourth floor.

Representative Sprague moved that HB 2581 be reported adversely. Representative Baker made a second to the motion, which passed on a voice vote.

SB 144

Chuck Simmons, Department of Corrections, explained the SB 144 was introduced at the request of the Department of Corrections. He read from his written testimony to explain the bill and what it would do, Attachment #1, which would give the D.O.C. essentially a two day extension to accept new inmates, which would not create an unmanageable burden on the counties. In response to a question from a Committee member, Mr. Simmons stated that D.O.C. has had numerous discussions with various counties about the ability to do this. He added that this was prompted by Saline County. He pointed out that no one appeared to testify in the Senate hearing on this bill, and that no one has contacted the Department either. He added that he did read a newspaper article about Shawnee County's interest in this, but his Department has not had any direct dialogue subsequent to this.

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Committee Discussion:

1. One Committee member stated that it seems that it is reasonable that D.O.C. is actually requesting more than 2 days. Would it be a compromise to request 2 days and not Saturdays and Sundays, because because this could stretch out to 7 days, as D.O.C. does not count Saturdays or Sundays as part of the three days.
2. In response to a question from one Committee member, Mr. Simmons stated that this will also apply to juveniles because that was extended in the last legislative session in HB 2666. But he added that he thought there is a specific bill on juveniles that provides that they will not be kept longer than 3 days except that could be extended by court order up to 10 days. He did not think that D.O.C. was proposing to amend that particular legislation which is in the juvenile court.
3. In reference to line 43 on page 1 of SB 144, the words "and amendments thereto", Staff stated that this is inserted as a routine matter, from the Revisor's Office, on any citations of statutes.

Representative Don Smith moved to recommend SB 144 favorable for passage. Representative Graeber made a second to the motion.

Committee Discussion:

1. One Committee member stated opposition to the bill because it is a cost shifting measure which will put more cost on our counties, and our jails right now, at least in our county, are working under a hardship.
2. Another Committee member stated that until he consults with his county sheriff, he also would not support this bill.

A representative of the County Sheriffs' Association from the audience stood and stated that the organization did not take a position on this bill because they were expecting a worse piece of legislation to come out of D.O.C..

Representative Hamilton made a substitute motion to amend by striking the words "not counting Saturdays, Sundays, and holidays" from line 15 of SB 144. Representative Rock made a second to the motion.

In response to a question from a Committee member, Mr. Simmons stated that the words "not counting Saturdays, Sundays, and holidays" are in the bill because D.O.C. does not count them at the present time. He added that they were merely trying to extend existing practice, because they are looking to gain additional time, and if you knock out Saturdays, Sundays, and holidays then we do not gain any time.

Chair Sebelius asked for a voice vote on Representative Hamilton's substitute motion to amend. The motion fails on a voice vote.

Representative Jones made a substitute motion to table SB 144. Representative Lawrence made a second to the motion. The yes's appear to have it. Division is called for. Motion carries by a show of hands.

HB 2571

Chair Sebelius explained that HB 2571 is the bill requested by Representative Gjerstad dealing with advertising of alcoholic liquor, and this basically would overrule the Attorney General's opinion of 1989.

Representative Gjerstad explained that there is amendment to this bill that would allow the retail liquor dealers to use the signage that they are currently allowed. She added that the original amendment that she had on the floor of the House that passed on the bill that was later killed, did allow the retail liquor stores to have that signage, and only applying to basically recodifying lines 14 through 19, the banning of handbills and billboards, which is current law.

Representative made a conceptual motion to amend the bill allowing the current signage (specific language is not with us, but it is drafted). Representative Empson made a second to the motion.

Committee Discussion:

1. When asked by a Committee member if the Attorney General's opinion that the retail

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liquor dealers could do this already, Representative Gjerstad replied that the Attorney General's opinion stated that it was obviously the intent not to allow handbills. But because of the way the bill was drafted to allow price and brand advertising during the 1989 Session, somehow nullified handbills and billboards.

Chair Sebelius called for a vote on Representative Gjerstad's conceptual motion. The motion passes on a voice vote.

Staff from the Revisor's Office indicated that in lines 32 through 36 of the bill, the language there should be stricken beginning with after "winery" and down through the end of that sentence in line 36. She explained that the dates should all be stricken, and that language was good only before July 1, 1989.

Representative Gjerstad moved to amend the bill by striking the language beginning on line 32 after the "winery" through line 36. Representative Empson made a second to the motion, which passed on a voice vote.

Committee Discussion:

1. One Committee member stated that she did not feel comfortable about passing this bill out without seeing the amendment language first.
2. Representative Gjerstad restated that her amendment clarifies that retail liquor stores will be able to keep their present signage. She added that this to do away with handbills because now we have direct mail coming into the State of Kansas advertising wine and spirits, which really offends a lot of people in our state. She pointed out that we all know that liquor is a very sensitive issue, and that is why that point is in there, and under that Attorney General's opinion that is no longer valid, and also the same thing on billboards. The law says it is unlawful to have billboards along the public highways, but under the A.G.'s opinion, that we are operating under, they can do it. She explained that this bill would simply return us to current law, but it does allow retail liquor stores to use their signs. If those who send out handbills and put up billboards do not like this and want to change the law, Representative Gjerstad stated that they should request a bill and have a hearing.
3. In response to a question from a Committee member, Staff from the Revisor's office clarified that this would grandfather existing signs so that they can be repaired or replaced if it has been destroyed.
4. One Committee member asked to see a balloon on the amendment.

Vice-Chair Krehbiel stated that the Committee would pass over this bill until the balloon is prepared.

HCR 5010

Representative Charlton reminded the Committee that this is the resolution concerning rescinding the call for the Constitutional Convention which we had hearings on the previous day. She stated that she would like to make a motion to amend.

One Committee member asked if the Committee could have more time to study this issue.

Chair Sebelius stated that the Committee would pass over this resolution to allow more time to study this.

HB 2452

Chair Sebelius explained that HB 2452 is the bill dealing with raising the driver's license age.

Representative Sprague passed out a memo that Bruce Kinzie helped him with in regards to suggestions to amend, Attachment #2.

Committee Discussion:

1. One Committee member stated that he supported this bill because it would eliminate two classes of drivers: rural and urban. Furthermore, he added that he supports this bill because it may reduce our dependence on foreign oil.

Representative Parkinson appeared before the Committee at the request of one of the members to explain his suggestions to amend the bill, Attachment #3.

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Committee Discussion:

1. One Committee member stated that when we start restricting children of a certain group, a certain section or a certain occupation, then we are discriminating and restricting where we shouldn't.
2. One Committee member stated that operating farm equipment takes considerable skills, and this ag exemption is pointed towards allowing 14 and 15 year olds to be able to do that. That member stated opposition to any exemption.

Representative Sprague moved that the bill be amended relative to 15 year old drivers and allow them to drive under restricted license between the hours of 6 a.m. and 7 p.m. on a to and from school basis only. Representative Lawrence made a second to the motion.

Representative Jones made a substitute motion to extend Representative Sprague's motion to 10 p.m.. Representative Lane made a second to the motion.

Committee Discussion:

1. Chair Sebelius reminded the Committee that 14 year olds are out of the bill altogether.
2. One Committee member state that this makes the law unenforcable because the local police cannot enforce driving back and forth to school or work.
3. One Committee member reminded the Committee that child labor laws prohibit children under the age of 16 working past 7 p.m..
4. Several Committee members stated opposition to the motion of driving past 7 p.m..
5. One Committee member stated that the Attorney General's opinion has ruled that going to a school related activity is not attending school.

Chair Sebelius called for a vote on Representative Jones substitute motion. Motion fails by a show of hands.

Chair Sebelius stated that this brings us back to Representative Sprague's original motion.

Representative Wagon made a substitute motion to drop 15 year old drivers altogether. Representative Baker made a second to the motion.

Committee Discussion:

1. One Committee member stated that if you oppose the bill, you will support the amendment. Let this go to the full House for a vote.

Chair Sebelius called for a vote on Representative Wagon's motion. The motion carries by a show of hands.

Representative Sprague moved that HB 2452 as amended be passed favorably. Representative Ramirez made a second to the motion.

Representative Cates made a substitute motion to strike sections 6 through 12. Representative Lawrence made a second to the motion.

Committee Discussion:

1. Representative Parkinson stated that section 13 and 14 provide that if you are convicted as a 15 year old for certain offences, you automatically loose your license for one year, and the other portion is a grandfather clause.

Representative Sprague withdrew his motion to pass favorably. Representative Ramirez withdrew his second.

Representative Cates withdrew his substitute motion, and Representative Lawrence withdrew her second.

Representative Cates made a motion to strike sections 6 through 12 of HB 2452. Representative Lawrence made a second to the motion, which passed on a voice vote.

Committee Discussion:

1. One Committee member stated that the purpose of the restricted license has been to be able to give a person experience prior to just automatically becoming a full driver.

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He added that he felt that it would be appropriate to apply for age 16 the restrictions that had been set out in the original bill, except that they should be between the hours of 6 a.m. and 7 p.m., and to get a full driver's license at 17, if they have had driver's education, and without driver's education they would have to wait until they are 18 years old.

Representative Sprague made a motion to also restrict driving at 16 and 17, and you could not get a full license until 18 unless you've had driver's education. Representative Rock made a second to the motion.

Committee Discussion:

1. Several Committee members stated opposition to the motion.

Representative Sprague withdrew his motion. Representative Rock withdrew his second.

Representative Wagon moved that a 16 year old can get a driver's license on his or her birthday. Representative Cates made a second to the motion, which passed by a show of hands.

Representative Krehbiel made a motion to permit 14 and 15 year olds to operate motor vehicles engaged in farming. Representative Graeber made a second to the motion.

Chair Sebelius suggested that Committee adjourn for now and work on the bill the next day. She asked Staff from the Revisor's Office to prepare a balloon drafted on what we have done so far.

Representative Baker moved to approve minutes from February 26, 1991. Representative Roy made a second to the motion, which passed on a voice vote.

Chair Sebelius adjourned the meeting.

STATE OF KANSAS



DEPARTMENT OF CORRECTIONS

OFFICE OF THE SECRETARY

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Joan Finney
Governor

Steven J. Davies, Ph.D.
Secretary

To: House Committee on Federal and State Affairs
From: Steven J. Davies, Ph.D. *Steven Davies*
Secretary of Corrections
Subject: Senate Bill No. 144
Date: March 28, 1991

Senate Bill No. 144 would amend K.S.A. 1990 Supp. 75-5220 by increasing from three days to five days, not counting Saturdays, Sundays, and holidays, the period within which the Department of Corrections must accept into custody individuals who have been sentenced to the custody of the secretary of corrections. This period begins when the secretary is notified by the sheriff that inmate has been sentenced to the secretary's custody.

Significant increases in new admissions to the custody of the secretary of corrections has made it extremely difficult for the department to accept inmates within the three day period now provided by statute. This has in some case resulted in inmates being retained in county jails beyond the three day period. In a recent opinion, the Attorney General held that the Department of Corrections was responsible for costs incurred by the county in keeping the inmate past the three day period.

New admissions averaged 327 per month in FY 90, compared to 294 in FY 89 and 250 in FY 88. To date in FY 91, new admissions are averaging 317 per month. This includes 352 new admissions in July and 366 new admissions in August.

New admissions are evaluated at the reception and diagnostic unit of Topeka Correctional Facility. A limited number of beds are available at that facility. While efforts have been taken to shorten the evaluation process so that inmates can be moved through

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the facility at a faster pace, the high rate of new admissions is still making it difficult to accept all new admissions within the three day limit.

The increase to a five day period is viewed as a reasonable attempt to resolve this problem without creating additional burdens on other governmental entities. The additional period of time would give the Department of Corrections some flexibility in planning and operations to work with the high numbers of individuals being admitted to the secretary's custody each month.

SJD/pa

MARK PARKINSON

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TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS

MEMBER: ELECTIONS
 JUDICIARY
 TRANSPORTATION

SUGGESTIONS FOR HB 2452

Chairperson Sebelius has indicated that this Committee will work on House Bill 2452 sometime this week. This is a bill that would restrict driving among fourteen and fifteen year olds. I am pleased that the Committee will be focusing on this important piece of legislation.

There are two flaws with HB 2452 that I believe the Committee should address. The first is that the bill actually expands driving for fifteen year olds, above current law. Current law provides that fifteen year olds can obtain restricted licenses. These allow driving only to and from work, and to and from school. There is no curfew restriction under current law. House Bill 2452 does impose a time restriction of 6:00 a.m. to 10:00 p.m., but it eliminates the current restrictions. Fifteen year olds could drive for any reason.

The second problem with HB 2452 is that it does not contain an agriculture exemption. I am convinced that Kansas law should include such an exemption, without it, the bills chance of passage is slim.

I would propose two sets of amendments that I have worked on with the revisors office. The first scenario would be my choice. The second is a fall back position. Both amendments would improve HB 2452 and are significant improvements over current law.

OPTION ONE NO 15 AND AN AG EXEMPTION

Option one is to eliminate the provisions of House Bill 2452 that allow 15 year olds to drive and then put on the ag exemption. The rationale for eliminating 15 year old driving is that it constitutes most of the problem. Of the

reduce the deaths and injuries of our young people, we need to get rid of 15 year old drivers.

The ag exemption is language primarily from the Nebraska statute. It would allow 14 and 15 year olds to drive as long as they work for a farm and are engaged in farm work at the time.

**OPTION TWO
TIGHTER ON 15 WITH AN AG EXEMPTION**

The second option is to keep 15 years olds in the bill, but tighten the restriction. I would suggest two ways to tighten it up. One is to reduce the curfew from 6:00a.m. to 10:00p.m. to 6:00a.m. to 7:00p.m. The second is to reinstate the current restrictions of to and from work, and to and from school. Under this amendment, there would be a curfew, plus restrictions during the curfew.

The restrictions are needed because a curfew is not enough. The information from Kansans for Highway Safety demonstrates that virtually all of the fatalities occur between 6:00a.m. and 10:00p.m. To allow driving for any reason during that time period only makes matters worse.

This second scenario also requests the ag exemption. Even with 15 year old driving, we will need the ag exemption in order to get the bill further into the legislative process.

I appreciate your interest and time.

PROPOSED AMENDMENT TO HB 2130

New Section 2. (a) Any person who is under the age of 16 years, but who is at least 14 years of age and resides upon a farm in this state or is employed for compensation upon a farm in this state may apply to the division of vehicles for a farm permit authorizing the operation of: (1) Farm tractors and other motorized implement of husbandry upon the highways of this state; or (2) motor vehicles registered as farm vehicles under K.S.A. 8-143, and amendments thereto, only while engaged in farming or farm-related activities.

(b) A farm permit shall be issued only if:

(1) The applicant can prove that such applicant resides or works on a farm;

(2) The applicant has successfully completed an approved course in driver training; and

(3) The applicant has a signed affidavit, by either a parent or guardian, stating that the applicant lives on a farm; or if the applicant does not live on a farm, but works on a farm, the employer and parent or guardian shall sign an affidavit attesting to such employment.

(c) As used in this section, "farm" means any parcel of land larger than 20 acres not located in any incorporated city which is owned by an individual and used in farming operations carried on by the owner at any time.

(d) A person who has been issued a farm permit and violates this section by driving beyond the scope allowed in subpart (a) shall lose the farm permit and receive no other drivers license until that person reaches the age of 16.