

Approved: May 4, 1991
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Senator Wint Winter Jr. at 10:05 a.m. on February 14, 1991 in room 514-S of the Capitol.

All members were present except: Senators Gaines and Kerr who were excused.

Committee staff present:

Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Gordon Self, Office of Revisor of Statutes
Judy Crapser, Secretary to the Committee

Conferees appearing before the committee:

Chip Wheelen, Kansas Medical Society
Gene Johnson, Kansas Community Alcohol Safety Action Project Coordinators Association,
Kansas Association of Alcohol and Drug Program Directors and
Kansas Alcohol and Drug Addiction Counselors Association
Ruth Meserve, Kansas Coalition for Drug-Free Driving
Ed Klump, Kansans for Highway Safety
David DePue, Topeka
Anne de Shazo, Mothers Against Drunk Driving
Lieutenant Bill Jacobs, Kansas Highway Patrol
Theresa Hodges, Kansas Department of Health and Environment

Chairman Winter called the meeting to order.

Chip Wheelen, Kansas Medical Society, requested the Committee introduce a bill to clarify the legislative intent of the 1990 SB 736, relating to charitable health care providers.
(ATTACHMENT 1)

Senator Bond moved to introduce the bill as requested by Mr. Wheelen. Senator Morris seconded the motion. The motion carried.

The Chairman opened the hearing for SB 124.

SB 124 - suspension and restriction of driver's license on conviction of DUI or refusal to take blood alcohol test.

Gene Johnson, representing the Kansas Community Alcohol Safety Action Project Coordinators Association, the Kansas Association of Alcohol and Drug Program Directors and the Kansas Alcohol and Drug Addiction Counselors Association, testified in support of SB 124.
(ATTACHMENT 2)

Ruth Meserve, Kansas Coalition for Drug-Free Driving, testified in support of SB 124.
(ATTACHMENT 3)

Ed Klump, Kansans for Highway Safety, testified in support of SB 124. (ATTACHMENT 4)

David DePue, Topeka, testified in support of SB 124. (ATTACHMENT 5)

Anne de Shazo, Mothers Against Drunk Driving, testified in support of SB 124. She also addressed SB 125 in support. (ATTACHMENTS 6 and 7)

This concluded the hearing for SB 124.

Chairman Winter opened the hearing for SB 125.

SB 125 - lower blood alcohol levels for DUI convictions.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:05 a.m. on February 14, 1991.

Gene Johnson, representing the Kansas Community Alcohol Safety Action Project Coordinators Association, the Kansas Association of Alcohol and Drug Program Directors and the Kansas Alcohol and Drug Addiction Counselors Association, testified in support of SB 125.
(ATTACHMENT 8)

Ruth Meserve, Kansas Coalition for Drug-Free Driving, testified in support of SB 125. (see Attachment 3)

Lieutenant Bill Jacobs, Kansas Highway Patrol Research and Planning, responded to questions of the Committee on the accuracy of testing equipment. He stated that the machines today are extremely accurate. However, he deferred to the Department of Health and Environment as to the exact degree of accuracy.

Theresa Hodges, Director of Laboratory Improvement Program Office of KDHE, stated the instruments are not sensitive enough to check minute levels of substances. She added that the equipment is accurate within .005 tolerance of detection in errors.

The hearing on SB 125 was continued to Friday, February 15, 1991. The meeting was adjourned.

Date 14 February 1991

VISITOR SHEET
Senate Judiciary Committee

(Please sign)

Name/Company	Name/Company
DICK TAYLOR	LIFE AT ITS BEST
MAX SWITZER AND	MADD - STATE OF KS.
Anne deSanzo	MADD, Leavenworth County
ALAN ANDERSON	KANSAS LUMBER DEALERS
Gene Johnson	Es. Com. H. S. A. P. Coordinator
Bruce Beale	Ks. ASNP
Ed Klupp	KANSAS FOR HIGHWAY SAFETY
Paul Shelby	OJA
JOE DICIC	DIR MOTOR VEHICLES
Mary Davenport	Ks Motor Carriers Assn.
Tom Whitaker	Ks Motor Carriers Assn.
Michelle Sreter	John Peterson & Associates
LT. BILL JACOBS	KANSAS HIGHWAY PATROL
Will Belden	LWVK
Mike Miller	City of Topeka
Tom Miller	SRSIADAS
JIM CLARK / KCDAA	
Chris Canfield	Office of Traffic Safety
Nancy Lindberg	Attorney Gen. Office
Julianne Nash	A.G. Office
Ron Smith	KFA
Ruth Mersene	Ks Coalition for Drug free Drug
Sheresa Hodges	Ks Dept. of Health + Environment

system examined. *Collins v. Heavener Properties, Inc.*, 45 K. 623, 626, 783 P.2d 883 (1989).

51. Act applicable to case of permanent state employee denied due process hearing following demotion in 1971. *Kansas Dept. of SRS v. Goertzen*, 245 K. 767, 779, 783 P.2d 1300 (1989).

52. Immunity from liability to high school athlete injured following practice based on recreational use (75-6104) examined. *Nichols v. U.S.D. No. 400*, 246 K. 93, 785 P.2d 986 (1990).

75-6102. Definitions. As used in K.S.A. 75-6101 through 75-6118, and amendments thereto, unless the context clearly requires otherwise:

(a) "State" means the state of Kansas and any department or branch of state government, or any agency, authority, institution or other instrumentality thereof.

(b) "Municipality" means any county, township, city, school district or other political or taxing subdivision of the state, or any agency, authority, institution or other instrumentality thereof.

(c) "Governmental entity" means state or municipality.

(d) "Employee" means any officer, employee, servant or member of a board, commission, committee, division, department, branch or council of a governmental entity, including elected or appointed officials and persons acting on behalf or in service of a governmental entity in any official capacity, whether with or without compensation and a charitable health care provider. Employee includes any steward or racing judge appointed pursuant to K.S.A. 1989 Supp. 74-8818 and amendments thereto, regardless of whether the services of such steward or racing judge are rendered pursuant to contract as an independent contractor, but does not otherwise include any independent contractor under contract with a governmental entity but does include a person who is an employee of a nonprofit independent contractor, other than a municipality, under contract to provide educational or vocational training to inmates in the custody of the secretary of corrections and who is engaged in providing such service in an institution under the control of the secretary of corrections provided that such employee does not otherwise have coverage for such acts and omissions within the scope of their employment through a liability insurance contract of such independent contractor. Employee also includes former employees for acts and omissions within the scope of their employment

during their former employment with the governmental entity.

(e) "Community service work" means public or community service performed by a person (1) as a result of a contract of diversion entered into by such person as authorized by law, (2) pursuant to the assignment of such person by a court to a community corrections program, (3) as a result of suspension of sentence or as a condition of probation pursuant to court order, (4) in lieu of a fine imposed by court order or (5) as a condition of placement ordered by a court pursuant to K.S.A. 38-1663 and amendments thereto.

(f) "Charitable health care provider" means a health care provider as the term "health care provider" is defined under K.S.A. 65-4921, and amendments thereto, who has entered into an agreement with the secretary of health and environment under K.S.A. 1990 Supp. 75-6120, and amendments thereto, who, pursuant to such agreement, renders professional services to medically indigent persons gratuitously and who is considered an employee of the state of Kansas under K.S.A. 1990 supp. 75-6120, and amendments thereto.

(g) "Medically indigent person" means a person who lacks resources to pay for medically necessary health care services and who meets the eligibility criteria for qualification as a medically indigent person established by the secretary of health and environment under K.S.A. 1990 Supp. 75-6120, and amendments thereto.

History: L. 1979, ch. 186, § 2; L. 1982, ch. 374, § 1; L. 1983, ch. 299, § 1; L. 1987, ch. 353, § 1; L. 1990, ch. 146, § 4; L. 1990, ch. 329, § 2; L. 1990, ch. 149, § 9; July 1.

Attorney General's Opinions:

Person covered by act; faculty of Kansas College of Technology. 89-81.

Volunteers working for state long-term care ombudsman. 90-21.

75-6103.

Attorney General's Opinions:

Person covered by act; faculty of Kansas College of Technology. 89-81.

Maintenance of waterway along township road. 90-27.

CASE ANNOTATIONS

19. Immunity from liability to high school athlete injured following practice based on recreational use (75-6104) examined. *Nichols v. U.S.D. No. 400*, 246 K. 93, 95, 785 P.2d 986 (1990).

75-6104.

Attorney General's Opinions:

Maintenance of waterway along township road. 90-27.

KMS would like to request intro' of technical clarification—

effective on publication in the Kansas register

this would be the vehicle if Attorney General's opinion indicates need for further clarification.

*Thanks,
Chip*

*Senate Judiciary Committee
2-14-91
Attachment 1*

TO: Senate Judiciary Committee
RE: SB 124
DATE: February 14, 1991 - 10:00 a.m.

Mr. Chairman and Members of the Committee:

My name is Gene Johnson and I represent the Kansas Community Alcohol Safety Action Project Coordinators Association, Kansas Association of Alcohol and Drug Program Directors and the Kansas Alcohol and Drug Addiction Counselors Association.

We support SB 124 as another means of providing our citizens of Kansas with safer roads and highways. This Legislature in its wisdom, several years ago, made drastic changes in our DUI laws in the State of Kansas. Since that time we have noted a significant decrease in the fatalities resulting from alcohol related crashes on our streets and highways. Also we have noticed a reduction in the number of alcohol related crashes in that same period of time.

However, we also note that the number of arrests seems to creep up each year and now exceeds 13,000 in any one year. The message has not gotten to the majority of the Kansans who drink and then operate their vehicle while doing so. We must continue our fight against drinking and driving in order to preserve the lives of the citizens of Kansas. Our research and the federal authorities who keep the statistics agree that severe sanctions against one's driving privileges is the best deterrent in preventing a person from drinking and operating a motor vehicle.

Under SB 124 the administrative suspension due to a chemical test failure, which now stands at 30 days, would be increased to 90 days. This would eliminate the 60 days restricted driving privileges under the present statutes. This particular restricted driving privileges of 60 days seems to cause some confusion to those offenders who either feel that it is a restricted driver's license and allows them to drive until they get caught or drive without consuming alcoholic beverages.

Under this proposed legislation the Driver Control Bureau would return the driver's license to the offender after a 90 day suspension. If the offender is

Senate Judiciary Committee
2-14-91
Attachment 2

convicted for the charge of DUI as defined under K.S.A. 8-1567, the sentencing court would notify the division of that conviction and the offender's license would then be restricted for 275 days under the usual conditions by the division.

We recommend amending the language on page 4, line 42 to "whenever the division is notified by the alcohol and drug safety action program that conducted the evaluation as provided for in K.S.A. 8-1008 that a person has failed to complete any alcohol and drug safety action education or treatment program ordered by a court for a conviction of a violation of K.S.A. 8-1567 and amendments thereto, the division shall suspend the person's driving privileges until the division receives notice of the person's completion of such program.

We urge this committee to pass favorably on this legislation as another step providing safety for all Kansas motorists from those people who choose to drink and drive.

Thank you. I will attempt to answer any questions.

Respectfully,



Gene Johnson
Legislative Lobbyist
Kansas Community Alcohol Safety Action Project Coordinators Association
Kansas Association of Alcohol and Drug Program Directors
Kansas Alcohol and Drug Addiction Counselors Association

KANSAS COALITION FOR DRUG-FREE DRIVING

9212 Briar, Prairie Village, Kansas 913-649-1177 Registered Lobbyist

February 14, 1991

TO; Judiciary Committee
RE; Senate Bills 124 and 125

Chairman and Members of the Committee

The Kansas Coalition for Drug Free Driving is a statewide coalition made up of members of about 10,000 concerned citizens including, Mothers Against Drunk Driving, Kansas PTA, Kansans for Highway Safety, Farm Bureau Mutual Insurance and Kansas ASAP Associations.

On Senate Bill No. 124 the coalition supports this bill with the changes Gene Johnson has suggested on page #4 line 42.

On Senate Bill No, 125 we also support this bill with the change in line 22 (4) because the person may have more then one offense. Go with the 1st offense which resulted in a conviction.

I have seen this happen in so many courts.

Ruth N. Meserve
KANSAS COALITION FOR
DRUG FREE DRIVING

Thank You
Ruth Meserve,

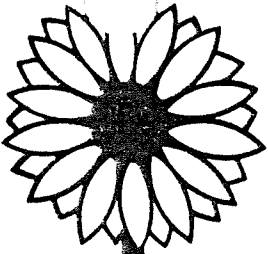
REGISTERED
LOBBYIST

PRAIRIE VILLAGE, KS
913-649-1177

Senate Judiciary Committee

2-14-91

Attachment 3



Kansans for Highway Safety

FEBRUARY 14, 1991

TESTIMONY BEFORE THE SENATE JUDICIARY COMMITTEE
REFERENCE SENATE BILL NO. 124

Kansans for Highway Safety supports Senate Bill 124. The change in suspension times from thirty to ninety days for first time test failure and first time DUI conviction should provide an increased deterrent to drunk driving. By making these suspension and restriction impositions the same for test failure and DUI conviction the administrative process will be less confusing and easier to administer, thus increasing the efficiency of the Driver Control Bureau of the Department of Revenue, Motor Vehicle Department. The concept of requiring the alcohol and drug programs to notify the division of failure to complete the education or treatment program should likewise assist the Driver Control Bureau in handling their case load. Suspension requirements are only effective if the administrative process is streamlined sufficiently to allow for the Driver Control Bureau to efficiently handle its case load with the personnel available. Increased efficiency for the division results in increased effectiveness of the driver's license sanctions.

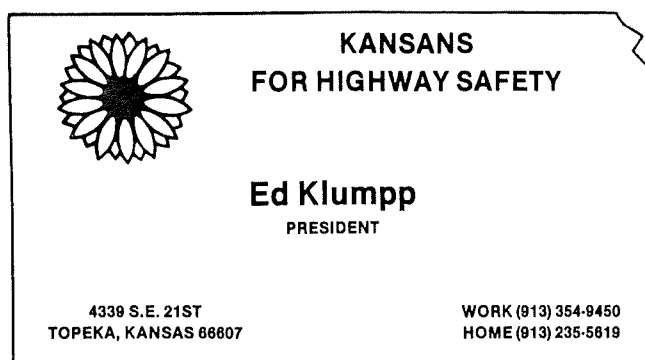
Kansans for Highway Safety would also urge the Committee to consider a possible change in the penalties for test refusal or failure for second or subsequent occurrence. Under the current provisions of KSA 8-1014 upon the second or subsequent occurrence of a test refusal or failure the suspension period is the same, one year. This provides no incentive for the driver to submit to the testing. In fact there is evidence that some attorneys are advising their clients to refuse the test if they already have had one conviction, test refusal or test failure. The reasons for this advice includes the fact that the suspension time is equal and without the test it is more difficult to convict and some prosecutors are more prone to dismiss or plea bargain the case. To show the magnitude of this problem I offer the following statistics from the Department of Health and Environment, Breath Testing Unit. **During the entire year of 1989 there were a total of 14,280 tests administered in the state and 1,352 refusals. But just in the first six months of 1990 there were 8,783 tests administered and 1,199 refusals. This is an increase of 77% in test refusals while tests increased only 23%.** Test

*Senate Judiciary Committee
2-14-91
Attachment 4*

refusals provide the mechanism for the person with an alcohol dependency to continue denial. Rehabilitation of these persons does not start until that denial cycle is broken. A completed breath or blood test is one of the tools of undeniable fact available to force the individual to face the truth of the alcohol dependency and to open the door to successful treatment. The administrative action for a test refusal should be longer than for a test failure.

While our organization is somewhat skeptical of the potential for success of the ignition interlock devices, we do not oppose its use in lieu of the license restriction period. We would oppose any effort to implement its use in lieu of the hard suspension time (the initial 90 day suspension period) required under the law. Our skepticism of the ignition interlock program is not in the device itself but rather in the possible circumventing of the device by innovative defendants and the ability of the law enforcement officers to identify those drivers that are required to use the interlock device. I would offer as an example the current listing in the motor vehicle department computer of the restrictions imposed by the court or the division as showing that the license is "modified" but unless the defendant chooses to carry the required papers describing the exact restrictions there is no way to tell what specific restrictions have been imposed. To be effective there must be a specific notation in the printout of the driver's license record that the interlock device is required. There also must be wording that mandates any violation of the interlock restriction, any subsequent breath test refusal or failure while under the interlock restriction, or any circumventing of the system requires the termination of the interlock restriction and reverting back to the required restriction without the interlock device. We also would encourage the administrative records be maintained in such a manner to allow the determination of the success or failure of this program at a future time.

The provisions of this bill should provide for a further reduction in the devastation occurring on our highways from drunk drivers and we urge the committee to pass the bill after consideration of our recommendations.



4-2/2

TO: Senator Winter, Sub Committee Members
FROM: David DePue, Topeka *David DePue*
SUBJECT: Support for SB124
DATE: February 14, 1991

I urge you to vote for this bill and to keep the language as strict as possible. Opponents will cite many problems and hardships resulting from this legislation. However, let me share some results of lack of bold action on this issue.

We lost my wife's mom and dad when a drunk driver hit the Greyhound bus that they were passengers in. A neighbor lost their daughter who was killed in an auto being driven by an intoxicated boyfriend. Two little boys were orphaned. My wife lost her sister due to a one car accident in which the driver later admitted to having been drinking. My brother had a drunken driver hit him head on. The only reason Rich came out okay is that his 20 ton truck withstood the impact of the smaller car. The other driver was killed.

Senators, many drinking drivers are making a mockery of our laws. Driving on our streets and highways is a little like playing Russian roulette. The other day my wife and I sat in a local fast food restaurant. We happened to be in a place where we could look out at three bars. During the nearly one hour period, dozens of people exited the establishments and drove away. Certainly the drinking driver does not value the **privilege** of driving nor the lives of yours or any of my loved ones.

Senate Judiciary Committee
2-14-91

Attachment 5



Mothers Against Drunk Driving

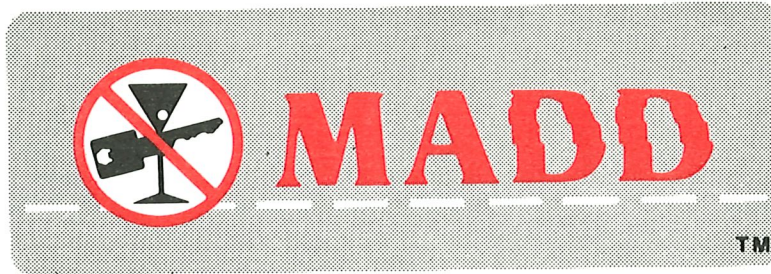
3601 SW 29th Street • Suite 244 • Topeka, KS 66614 • (913) 271-7525 • 1-(800) 228-6233

KANSAS STATE OFFICE

MOTHERS AGAINST DRUNK DRIVING
POSITION STATEMENT
SENATE BILL 125 & 124

PRESENTED BY ANNE de SHAZO
VICTIMS ASSISTANCE COORDINATOR
LEAVENWORTH COUNTY CHAPTER
MOTHERS AGAINST DRUNK DRIVING

*Senate Judiciary Committee
2-14-91
Attachment 6*



Mothers Against Drunk Driving

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KANSAS STATE OFFICE

2/14/91

POSITION STATEMENT

On behalf of Kansas Mothers Against Drunk Driving, I wish to submit to the Senate Judiciary Committee, our full endorsement of Senate Bill 125. Passage of Senate Bill 125, lowering the legal limits for Blood Alcohol Content, supports MADD's position and the Attorney General's Victims' Rights Task Force 1991 Legislative Recommendations.

Kansas MADD also supports Senate Bill 124 with one exception. MADD recommends the Blood Alcohol Content level referred to in the bill be reduced from .10 to .08.

Wanda Stewart, Chairperson
Kansas State Committee,
Mothers Against Drunk Driving

6-2/5

KANSAS 1989 FACT SHEET
(reported in 1990)

1. 6.98% (4,443) of all accidents in Kansas in 1989 were alcohol related.
2. 30.73% (114) of all fatality accidents were alcohol related.
3. 11.68% (2,557) of all injury accidents were alcohol related.

ALCOHOL RELATED MOTOR VEHICLE ACCIDENTS COMPARED
TO ALL MOTOR VEHICLE ACCIDENTS IN KANSAS

YEAR	ALL ALCOHOL RELATED ACCIDENTS	ALL ACCIDENTS	% OF ALL ALCOHOL RELATED	ALCOHOL RELATED FATALITY ACCIDENTS	ALL FATALITY ACCIDENTS	% OF ALL FATALITY ACCIDENTS	ALCOHOL RELATED INJURY ACCIDENTS	ALL INJURY ACCIDENTS	% OF ALL INJURY ACCIDENTS
1989	4,443	63,642	6.98%	114	371	30.73%	2,557	21,885	11.68%
1988	4,607	63,256	7.28%	159	406	39.16%	2,602	21,461	12.12%
1987	4,559	64,431	7.08%	182	415	43.86%	2,459	21,582	11.39%
1986	4,759	61,984	7.68%	182	413	44.07%	2,551	20,973	12.15%
1985	4,740	72,677	6.52%	135	429	31.47%	2,362	21,907	10.78%
1984	5,083	69,880	7.27%	155	452	34.29%	2,586	21,595	11.07%

SOURCE: Geometric and Accident Data Unit
Bureau of Transportation Planning
KS. Department of Transportation
Topeka, KS
(913)-296-7452

*1989 statistics reported in 1990.

*1990 statistics not yet available.

6-4/5

ALCOHOL & DRUG INVOLVEMENT

ALCOHOL & DRUG INVOLVED DRIVERS

AGE	MALE	FEMALE
(10-14)	2	1
15	10	3
16	61	15
17	98	28
18	171	22
19	212	30
(15-19)	552	98
20	182	29
21	184	42
22	188	28
23	157	37
24	146	25
(20-24)	857	161
25	154	27
26	146	42
27	140	33
28	153	36
29	124	40
(25-29)	717	178
(30-34)	555	106
(35-39)	331	66
(40-44)	228	46
(45-49)	141	27
(50-54)	90	10
(55-59)	59	15
(60-64)	61	9
(65-69)	33	8
(70-74)	26	7
75 AND OVER	21	8
UNKNOWN	7	1
TOTAL	3682	741

Driver sex was uncoded for 50 drivers.

TYPE OF INVOLVEMENT (ACCIDENT)

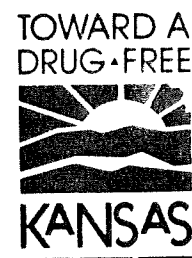
Percent Accidents Involving Alcohol/ Drugs	
ALCOHOL	6.90%
DRUGS	0.20%
UNKNOWN	11.80%
NONE USED	81.10%
TOTAL	100%

TEST ADMINISTERED AND RESULTS

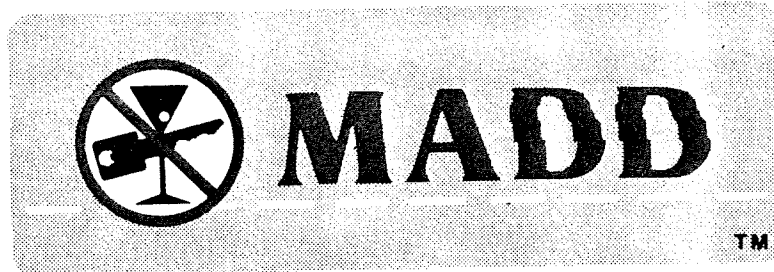
Drivers Tested for Sobriety		Test Results	
TEST TYPE	NUMBER		No.
BREATH	1785	BAL=0	62
BLOOD	303	BAL<0.05	27
TEST NOT GIVEN	2256	0.05-0.09	96
REFUSED	129	0.10-0.14	327
		0.15-0.19	553
		BAL>0.20	638

Test results were uncoded for 385 drivers.

**A Challenge and Commitment
for every Caring Kansan.**



6-5/5



Mothers Against Drunk Driving

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KANSAS STATE OFFICE

AGENCIES WHO SUPPORT LOWERING THE ALCOHOL CONCENTRATION LIMIT
BELOW .10.

NATIONAL SAFETY COUNCIL (NSC) Committee on Alcohol and Drugs.

THE AMERICAN MEDICAL ASSOCIATION

THE NATIONAL COMMITTEE ON UNIFORM TRAFFIC LAWS AND ORDINANCES
(NCUTLO)

THE AMERICAN SPINAL INJURY ASSOCIATION (ASIA)

STATES WITH .08 LIMITS. UTAH, MAINE, AND OREGON.

REFERENCES: MOSCOWITZ AND ROBINSON, "EFFECTS OF LOW DOSES
OF ALCOHOL ON DRIVING SKILLS: A REVIEW OF THE
EVIDENCE," JULY 1987.

ZERO ALCOHOL AND OTHER OPTIONS: LIMITS FOR
TRUCK AND BUS DRIVERS, SPECIAL REPORT 216,
TRANSPORTATION RESEARCH BOARD, NATIONAL RESEARCH
COUNCIL, WASHINGTON, D.C. AUGUST 1987.

Senate Judiciary Committee
2-14-91
Attachment 7

(National Statistics)

ALCOHOL-RELATED TRAFFIC FATALITIES

Number Alcohol Related:

Age Group	1982	1983	1984	1985	1986	1987	1988	1989
0-14	950	890	825	745	810	849	825	790
15-19	4,135	3,575	3,520	3,115	3,540	3,259	3,158	2,775
20-24	5,840	5,505	5,600	5,140	5,400	4,880	4,895	4,215
25-64	12,750	12,320	12,385	11,985	12,830	13,248	13,056	13,200
65-	1,345	1,255	1,290	1,195	1,250	1,307	1,314	1,345
Unknown	150	105	140	180	160	91	103	90
Totals	25,170	23,650	23,760	22,360	23,990	23,632	23,351	22,415
<hr/>								
Total Traffic Fatalities	43,945	42,589	44,257	43,825	46,056	46,386	47,093	45,555
<hr/>								
Percentage Alcohol-Related	57.3%	55.5%	53.7%	51.0%	52.1%	50.9%	49.6%	49.2%

COMPARISONS

	82-89	85-86	86-87	87-88	88-89
	-17%	+ 8.7%	+ 4.8%	- 2.8%	- 3.0%
	-33%	+13.6%	- 7.9%	- 3.1%	-11.7%
	-28%	+ 5.0%	- 9.6%	+ .3%	-13.7%
	+.4%	+ 7.0%	+ 3.2%	- 1.4%	+ 1.2%
	...	+ 4.6%	+ 4.5%	+ .5%	+ 2.7%
	-40%	-11.0%	-43.1%	+11%	-12.6%
<hr/>					
Totals	-11%	+ 5%	- 1.5%	- 1.2%	- 3.8%
<hr/>					
Total Traffic Fatalities	+3.7%	- 5%	+ .5%	+ 1.5%	- 3.3%

7-7/4

GENERAL STATISTICS (National Statistics)

- * During the period 1982 through 1989, approximately 188,470 persons lost their lives in alcohol-related traffic crashes. (NHTSA, 1990)
- * Traffic crashes are the greatest single cause of death for every age between the ages of five and thirty-two. Almost half of these fatalities are a result of alcohol-related crashes. (NHTSA, 1990)
- * Each year, about 600,000 --10%-- of all police reported motor vehicle crashes are alcohol related. (NHTSA, 1990)
- * About two in every five Americans will be involved in an alcohol-related crash at some time in their lives. (NHTSA, 1990)
- * The proportion of fatal crashes that are alcohol related is about three times greater at night than during the day. (NHTSA, 1990)
- * More than half of all alcohol related fatalities occur in single vehicle crashes. (NHTSA, 1990)
- * In 1989 there were 12,997 fatally injured drivers in single vehicle crashes. About 52.9% were intoxicated. (NHTSA, 1990)
- * Arrests for DUI/DWI accounted for the highest (1.7 million) arrest count among the specific categories in 1989, followed by larceny-theft (1.6 million) and drug abuse violations (1.4 million). (FBI, 1990)
- * About 48% of persons jailed for DWI had previous DWI convictions. (FBI, 1989)
- * Males were most often arrested for driving under the influence. (FBI, 1989)
- * Estimates of the economic costs of drunk driving range from \$11 billion (NHTSA 1985) to \$24 billion (FBI, 1989) each year.
- * The National Highway Traffic Safety Administration estimates that perhaps as many as a quarter of a million persons were killed in alcohol-related crashes over the last 10 years. (FBI, 1989)
- * Prior to their arrest for DWI, convicted offenders had consumed a median of 6 ounces of pure alcohol (about equal to the alcoholic content of 12 bottles of beer or 8 mixed drinks) in a median of 4 hours. About 26% consumed at least 10 ounces of pure alcohol (equivalent to 20 beers or 13 mixed drinks). (FBI, 1989)

BACs For All Drivers Involved in Fatal Crashes

Percent of Drivers With BAC

82-87

BAC	1982	1983	1984	1985	1986	1987
.00%	61	62	64	66	66	67
.01-.09%	9	9	9	8	8	8 (4,916)
≥.10%	30	29	27	26	26	25
N	56,029	54,656	57,512	57,883	60,297	61,434

Source: FARS, NHTSA

BACs For Teenaged (16-19) Drivers Involved in Fatal Crashes

Percent of Drivers with BAC

82-87

BAC	1982	1983	1984	1985	1986	1987	Change
.00%	58	61	63	67	66	69	
.01-.09%	13	13	13	11	13	12	
≥.10	29	27	24	22	21	19	-34%
N	7,467	7,050	7,366	7,151	7,854	7,769	

Source: FARS, NHTSA

TO: Senate Judiciary Committee

RE: SB 125

DATE: February 14, 1991 - 10:00 a.m.

Mr. Chairman and Members of the Committee:

My name is Gene Johnson and I represent the Kansas Community Alcohol Safety Action Project Coordinators Association, the Kansas Association of Alcohol and Drug Program Directors and the Kansas Alcohol and Drug Addiction Counselors Association.

We support SB 125 as a step forward in removing the drinking driver from the highways of Kansas. Since 1982 when this Legislature made some of the most drastic changes in our DUI laws in reducing the number of alcohol related crashes and the number of alcohol related fatalities in our state. The 1982 figures furnished by the Kansas Department of Transportation, Safety Division would indicate that there were 5,284 identifiable accidents that were classified as alcohol related. During that same year 177 fatalities resulted from those accidents. During 1989 the Kansas Department of Transportation's Safety Division indicated that there were 4,443 alcohol related crashes and 134 fatalities in those crashes. The National Highway Safety Commission estimated in 1990 that each alcohol related crash resulted in property damage of \$3,000. Based on the 841 reduction in accidents we are talking about a total of property damage saved to the citizens of Kansas of \$2,523,000 in 1989 alone. The same National Highway Safety Commission estimates each fatality or the loss to society at \$290,000. Based on those 177 fatalities in 1982 to a reduction of 134 fatalities in 1989 would see a reduction in lives lost of 43 in one year. That loss to society in one year alone can be measured at \$12,470,000. A reduction in the blood alcohol concentration from .10 to .08 certainly would have an impact on those figures.

By reducing the .10 to .08 we are sending a definite message to those individuals who have thought in the past that it is okay to have a few drinks and operate

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a motor vehicle in an impaired fashion. If it means that that blue collar worker who stops by to have a cool one after work, that he will only drink maybe two and then resume his journey home in a slightly impaired fashion rather than drinking his normal four to six. We also mean for that white collared worker who stops at his club or favorite bar that maybe one or two mixed drinks is all he should have before he operates his motor vehicle to drive home to his family. If the reduction of the legal limit to operate a motor vehicle to .08 saves one life or prevents one serious alcohol related crash that produces injury we have accomplished our purpose. Another feature of this legislation is to make it unlawful for anyone under the age of 21 to operate a motor vehicle who has consumed any official amount of alcohol whatsoever. We all know these people under the age of 21 do not have a long history in social drinking. They have not yet learned how to gauge their drinks and when they are impaired. This Legislature, two years ago, made it unlawful for anyone under the age of 21 to have or consume alcohol. We feel that if the law states that they cannot drink alcohol it is only natural to assume that they shouldn't operate a motor vehicle after consuming any alcoholic beverages.

Another condition of this proposed legislation is that those persons who depend on their livelihood in a commercial manner in operating for hire that they must not consume any alcohol while operating a motor vehicle. Even the small amount of alcohol for a person operating a heavy semi-truck or perhaps a taxicab for hire can be dangerous to anybody on board or possibly those passengers who paid for that last ride.

We do not think this would overtax the judicial system in lowering this legal limit to operate motor vehicles. It would send a message to the general public that it is no longer advisable or acceptable to operate a motor vehicle after consuming any amount of alcohol or other illegal drugs. Based on some research done by the Topeka Police Department in 1987 and 1988 we might anticipate at the most a 10 percent increase in arrests due to the lowering of the breath alcohol level.

We would suggest that this committee research an area in the present law which is causing some problems in their judicial system in the state. I refer to page 15, line 22, subsection (4) "it is irrelevant whether an offense occurred before or after conviction for a previous offense." In some instances the offender may be charged with DUI and while waiting for that charge to come to court may be picked up for a second DUI or even a third or fourth before the court has ruled on the initial number one arrest. Some of our courts have taken the position that because a conviction had not occurred on that first arrest that if he is convicted and sentenced on multiple arrests at the same time they should stand as a first conviction. Therefore, we consider him as a first offender on the multiple convictions. We would hope that the staff could research that statement to determine whether it could be clarified in order for our courts to have better guidance that even though the offender stands before the court not being convicted but having two or more convictions at that time would not suffer the minimum penalty as set forth by statute.

I might add at this time that other states are lowering their breath alcohol content to a .08. Those states in the past few years are Utah, Idaho, Oregon, Maine and this past legislative session the State of California. We would hope that this committee would act favorably on SB 125 in order to ensure the citizens of Kansas added safety on their streets and highways from the drinking driver.

Thank you.

Respectfully,



Gene Johnson
Legislative Lobbyist

Kansas Community Alcohol Safety Action Project Coordinators Association
Kansas Association of Alcohol and Drug Program Directors
Kansas Alcohol and Drug Addiction Counselors Association

8-3/13