

Approved: 2-7-96
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Michael R. O'Neal at 3:30 p.m. on January 23, 1996 in Room 313-S of the Capitol.

All members were present except:

Representative Gary Merritt - Excused
Representative Britt Nichols - Excused
Representative Candy Ruff - Excused

Committee staff present: Jerry Donaldson, Legislative Research Department
Mike Heim, Legislative Research Department
Jill Wolters, Revisor of Statutes
Cindy Wulfkuhle, Committee Secretary

Conferees appearing before the committee:

Helen Stephens - Kansas Peace Officers Association
Rosalie Thornburg - Kansas Department of Transportation
Dr. Roger Carlson - Kansas Department of Health & Environment
David Debenham - Deputy Attorney General, Criminal Division
Lt. Sam Grant - Kansas Highway Patrol
Gene Johnson - Kansas Community Alcohol Safety Action Program
Rhonda Mongold - Students Against Drunk Drivers
Stan Stewart - Mothers Against Drunk Drivers
Canda Byrne - Kansas Alcoholism & Drug Addition Counselors Association
Francis Wood - Women's Christian Temperance Union
Terri Roberts - Kansas State Nurses' Association
Amelia McIntyre - Kansas Department of Wildlife and Parks
Tuck Duncan - Kansas Wine & Spirits Wholesalers Association

Others attending: See attached list

HB 2442 - Covered offenses under civil asset forfeiture to include driving while suspended or revoked for violation of DUI statute, was scheduled for a hearing but no conferees appeared to testify on the bill and the bill was withdrawn from consideration.

Helen Stephens, Kansas Peace Officers Association, appeared before the committee with requests for two bill introductions. The first would increase the amount of money needed when an accident report is filled out.

Representative Pauls made a motion to introduce this bill as a committee bill. Representative Goodwin seconded the motion. The motion carried.

The second bill request dealt with the annual immigration card. Representative Ott made a motion to introduce this bill as a committee bill. Representative Howell seconded the motion. The motion carried.

Hearings on **HB 2603** - Drivers under 21 blood alcohol concentration of .02 or greater, were opened.

Rosalie Thornburg, Kansas Department of Transportation, appeared before the committee as a proponent of the bill. She explained that Section 320 of the National Highway System Designation Act of 1995 requires states to enact and enforce a law that would consider it unlawful for individuals under age of 21 to drive with a blood alcohol concentration of .02 or greater. If the state fails to enact this law by 1998 it is subject to a withholding of five percent of federal aid highway funds which is estimated at \$6.9 million, and \$13.9 million each year thereafter, (Attachment 1).

Chairman O'Neal asked what the difference was between what passed out of committee last year and this bill. Jill Wolters explained that the bill last year had a positive/negative BAC standard.

Stan Stewart, Mothers Against Drunk Drivers, appeared before the committee in support of the bill. He told the committee that it seems reasonable to expect drivers under the age of 21 to drive without alcohol in their system. After all they are not legally allowed to purchase alcohol, (Attachment 2). As the City Manager at El

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY, Room 313-S-Statehouse, at 3:30 p.m. on January 23, 1996.

Dorado, police officers have stopped 18-20 minors a year who have been drinking and blow less than .08. The City Attorney won't prosecute because they don't have the container in their possession. He suggested that the legislature should either pass **HB 2603**.

Committee members were concerned that prosecutors can't prosecute those under the age of 21 unless the police officer sees the minor with the alcohol. A request was made of staff to provide the committee with information as to how this is allowed.

Dr. Roger Carlson, Kansas Department of Health & Environment, appeared before the committee in support of the bill. He stated that clear impairment can be documented at .05. That is why there is a federal requirement for interstate truck drivers at .04. At .08 one cannot safely operate a motor vehicle. The state currently has 182 testing instruments in operation and eight of these are more than eight years old and need to be replaced. Each instrument is inspected and certified once a year, (Attachment 3).

Chairman O'Neal commented that the Legislature had set up a special equipment fund to buy updated equipment and questioned where the money came from. Dr. Carlson replied that 50% of the reinstatement funds are directed towards rehabilitation efforts, 20% goes towards K.B.I. Laboratories and the remaining 10% toward Health & Environment. They have reported funding for only one quarter.

David Debenham, Deputy Attorney General Criminal Division, appeared before the committee as a proponent of the bill. He commented that the Attorney General believes that the state owes it to youths to make sure that they realize the dangers of drinking and driving, (Attachment 4).

Lt. Sam Grant, Kansas Highway Patrol, appeared before the committee in support of the bill. He stated that many youthful drivers are involved in alcohol related crashes. With the passage of this bill the safety of the highway will be improved, (Attachment 5).

Gene Johnson, Kansas Community Alcohol Safety Action Program, appeared before the committee in support of the bill. He suggested that the committee amend the bill to include the requirement of an alcohol and drug safety education program for those convicted of a first DUI and those who receive a diversion, (Attachment 6).

Rhonda Mongold, Students Against Drunk Drivers, appeared before the committee as a proponent of the bill. She commented that the consumption of alcohol by minors is all too common and that many teenagers are able to obtain alcohol quite easily. She urged the committee to pass **HB 2603** because it might save lives, (Attachment 7).

Canda Byrne, Kansas Alcoholism & Drug Addition Counselors Association, appeared before the committee in support of the bill. She commented that laws do not stop young people from drinking or drinking and driving but hopefully the education that follows an arrest and the loss of driving privileges would, (Attachment 8).

Francis Wood, Women's Christian Temperance Union, appeared before the committee as a proponent of the bill. She stated that every two weeks an estimated 40% of high school seniors consume five or more drinks in one sitting, (Attachment 9).

Terri Roberts, Kansas State Nurses's Association, appeared before the committee in support of the bill. She shared with the committee an incidence where she was a nurse involved with a minor who died as a result of h an alcohol-related crash by a drunken driver under the age of 21, (Attachment 10).

Amelia McIntyre, Kansas Department of Wildlife and Parks, appeared before the committee with an amendment that .02 for those under 21 apply to boaters as well, (Attachment 11).

Tuck Duncan, Kansas Wine & Spirits Wholesalers Association, appeared before the committee with some concerns on the bill, such as, the same penalties that apply to .08 would apply to .02 and that the family may be dropped by their automobile insurance because their child had been convicted of drinking and driving, (Attachment 12).

Hearings on **HB 2603** were closed.

Representative Adkins made a motion to approve the committee minutes from January 9, 10, 16 & 17. Representative Goodwin seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY, Room 313-S-Statehouse, at 3:30 p.m. on January 23, 1996.

Representative Adkins appeared before the committee with a bill request. He explained that when the Juvenile Youth Authority was enacted all land titled in the name of SRS was transferred to the Youth Authority. The bill would make it clear that only the youth centers would be transferred.

Representative Mays made a motion to have the bill request introduced as a committee bill. Representative Grant seconded the motion. The motion carried.

Representative Garner appeared before the committee with several bill requests. The first dealt with changing a condition of probation to allow "up to 180 days in jail". Representative Garner made a motion to have this bill introduced as a committee bill. Representative Haley seconded the motion. The motion carried.

The next would allow those who want to run for sheriff but have been convicted of a gambling or alcohol violation to do so as long as the conviction was more than 10 years old. Representative Garner made a motion to have this bill introduced as a committee bill. Representative Goodwin seconded the motion. The motion carried.

The final bill request dealt with the ability of landlords to dispose of property after 120 days after the court has ordered the tenant to leave the premises. Representative Garner made a motion to have this bill introduced as a committee bill. Representative Snowbarger seconded the motion. The motion carried.

Representative Adkins made a motion to report **HB 2442** adversely. Representative Garner seconded the motion. The motion carried.

The committee meeting adjourned at 5:30. The next meeting is scheduled for January 24, 1996.

HOUSE JUDICIARY COMMITTEE GUEST LIST

DATE: January 23, 1996

NAME	REPRESENTING
Steve Johnson	A.S.A.P.
Sara Steinlage	SADD Seaman H.S.
Rhonda Mongold	SADD - Seaman High School
Amelia M. Intyre	Ks Dept. of Wildlife & Parks
CRADA Byrne	Ks Alcoholism & Drug Addiction Counseling Assoc.
Rosalee Thornburg	KAOT
Ron Miller	SRS/ADAs
Neal Whitaker	KBWA
Jack Jordan	KWSWA,
TOM WHITAKER	Ks MOTOR CARRIAGES ASSN
FOR JOHN C. BOTTENBERG	KWSWA
Kathy Peterson	DISCS
Jim Clark	KCOAA
Scott Disoglu	Division of the Budget
Samuel S. Grant	Kansas Highway Patrol
Wendy M. Farland	ACLU
Jason Grant	Seaman High School
Wayne Smith	KBA
Stanley P. Siron	KDHE Lab Breath/Alcohol

HOUSE JUDICIARY COMMITTEE GUEST LIST

DATE: January 23, 1996

NAME	REPRESENTING
LARRY C. MANN	KBI Toxicology
Kyle Smith	KBI
Roger Carlson	KDHE
James Wood	Woman's Christian Temperance Union
Nick Haines	KS Public Radio

E. Dean Carlson
Secretary of Transportation

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Bill Graves
Governor of Kansas

TESTIMONY BEFORE
HOUSE JUDICIARY COMMITTEE

REGARDING HOUSE BILL 2603
MANDATORY ZERO TOLERANCE LAW FOR DRIVERS UNDER AGE 21

January 23, 1996

Mr. Chairman and Committee Members:

Mr. Chairman and members of the committee, I am Rosalie Thornburgh, Bureau Chief of Traffic Safety. On behalf of the Department of Transportation, I am here today to support House Bill 2603 and provide testimony regarding the federal requirement to enact a "zero tolerance" law for individuals under the age of 21.

The establishment of a zero tolerance law supports the fact that current law, in all 50 states and the District of Columbia, prohibits the purchase and public possession of alcoholic beverages by those under the age of 21. Therefore, it would seem reasonable to expect drivers under the age of 21 to have no alcohol in their systems and the appropriate blood alcohol concentration (BAC) for these drivers would be zero. However, given the present level of technology, a BAC level of 0.02 is generally accepted as a zero tolerance level, indicating any measurable amount.

BACKGROUND/OVERVIEW

Section 320 of the National Highway System Designation Act (NHSDA) of 1995 (Public Law 104-59) contains a requirement for a state to enact and enforce a law that considers an individual under the age of 21 who has a blood concentration of .02 percent or greater while operating a motor vehicle in the state to be driving under the influence of alcohol (DUI).

A state that fails to adopt and enact this law before October 1, 1998 (the beginning of federal fiscal year 1999) is subject to a withholding of five percent of certain federal-aid highway construction funds. In each year thereafter, failure to comply by October 1 will result in the state being subject to 10 percent withholding of certain federal-aid highway construction funds.

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PERIOD OF AVAILABILITY OF WITHHELD FUNDS

The withholding provision applies to the first two years of penalty. In other words, if compliance is reached by September 30, 2000 (the end of federal fiscal year 2000), the amounts withheld for federal fiscal year 1999 and federal fiscal year 2000 would be available to the state. Any funds withheld after September 30, 2000 (or October 1, 2000 - the beginning of federal fiscal year 2001) would be a loss to the state.

PENALTY AMOUNTS

Based upon current estimates of our federal fiscal year 1997 apportionments, the final year of authorization under ISTEA, the withholding amount for federal fiscal year 1999 would be \$6.9 million. The withholding amount in federal fiscal year 2000, and each year thereafter, would be \$13.9 million.

COMPONENTS OF THE LAW

The language in Section 320 does not specify the sanctioning requirements for the DUI offender. The National Highway Traffic Safety Administration (NHTSA) has not yet interpreted this law. However, NHTSA has a standing interpretation under another alcohol grant program (Section 410) which requires, at a minimum, a mandatory 30-day "hard" driver's license suspension. A "hard" suspension means that it may not be subject to hardship, conditional, or provisional driving privileges. We are waiting on further information from NHTSA.

OTHER KEY FACTS/STATISTICS

Attachment 1 is a Legislative Fact Sheet, prepared by NHTSA, which provides pertinent information about the youth drinking and driving problem. The document shows the 27 states plus the District of Columbia that have set the BAC limit at .02 or lower for those under 21. It also describes positive outcomes of law changes in Maryland, Maine, New Mexico, North Carolina and Wisconsin.

National findings show that more than 35 percent of all deaths of 15- to 20-year olds result from motor vehicle crashes. In 1994, 37.6 percent of the 6,226 traffic fatalities of this age group were alcohol-related. This translates to 2,343 fatalities nationally. The alcohol involvement rate for young drivers, based on the total licensed driver population, is about twice that of the over-21 age group.

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In Kansas, in 1994, 17.4 percent of the 92 traffic fatalities of this age group were alcohol-related, as reported by police. This translates to 19 fatalities in Kansas. Other pertinent statistics are presented in Attachment 2

In closing, passage of House Bill 2603 would meet the federal requirements contained in the National Highway System Designation Act and prevent the withholding of highway construction funds. I believe that this law would be an effective deterrent to underage drinking and driving, and support the state's comprehensive efforts to reduce the deaths and injuries among Kansas' youth.

Zero-Tolerance Laws To Reduce Alcohol-Impaired Driving By Youth

The U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA) encourages States to enact zero tolerance laws designed to reduce drinking and driving among younger drivers. Such laws should:

- establish that any measurable amount (.02 maximum) of alcohol in the blood, breath, or urine of a driver under age 21 would be an "illegal per se" offense; and,
- provide for immediate driver license suspension periods for those under age 21 who exceed the applicable blood alcohol concentration (BAC) limit.

All 50 States and the District of Columbia now have laws that prohibit the purchase and public possession of alcoholic beverages by those under the age of 21. Therefore, it would seem reasonable to expect drivers under the age of 21 to have no alcohol in their systems, and the appropriate BAC for these drivers would be zero. However, NHTSA recognizes that, given the present level of technology of alcohol breath testing devices, it is difficult for law enforcement officers to detect extremely low amounts of alcohol in the body. It is for this reason that the agency generally supports States that have laws establishing a BAC level of 0.02, at which it is illegal for those under the age of 21 to operate a motor vehicle.

Younger drivers place a high value on their drivers' licenses, and the threat of license revocation has proved to be an especially effective sanction for this age group.

In a radio address to the nation on June 10, 1995, President Clinton stressed the importance of all states passing Zero Tolerance Laws. "Zero tolerance will save lives. It's already saving lives in 24 states, including my home state...It's time to have zero tolerance for under-age drunk driving all across America, not just in some states."

Key Facts

- More than 35 percent of all deaths of 15 to 20 year olds result from motor vehicle crashes. In 1994, 37.6 percent of the 6,226 traffic fatalities of 15 to 20 year olds were alcohol-related. The percentage translates to 2,343 traffic fatalities in this age group that were alcohol-related last year.

Contents

- **Key Facts**
- **States With Special Laws For Youth**
- **How The Laws Work**
- **Cost Benefit Estimates**
- **Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991**
- **Information Sources**

Key Facts *(continued)*

- In 1994, 22 percent of 15 to 20 year old drivers involved in fatal crashes had some alcohol in their blood. The alcohol involvement rate for young drivers, based on the total licensed driver population, is about twice that of the over 21 age driver.
- NHTSA estimates that 848 lives were saved in 1994 by minimum drinking age laws. Since 1975, it is estimated that almost 14,816 lives have been saved in the affected ages by these laws. However, young people under age 21 are still greatly over-represented in alcohol-related crashes and fatalities.
- Driver license revocation or suspension has proven to be an effective deterrent in reducing crashes and the reoccurrence of alcohol-related driver offenses in the general population. Some State licensing officials believe sanctions have an even greater effect on younger drivers, since they value their drivers' licenses so highly.

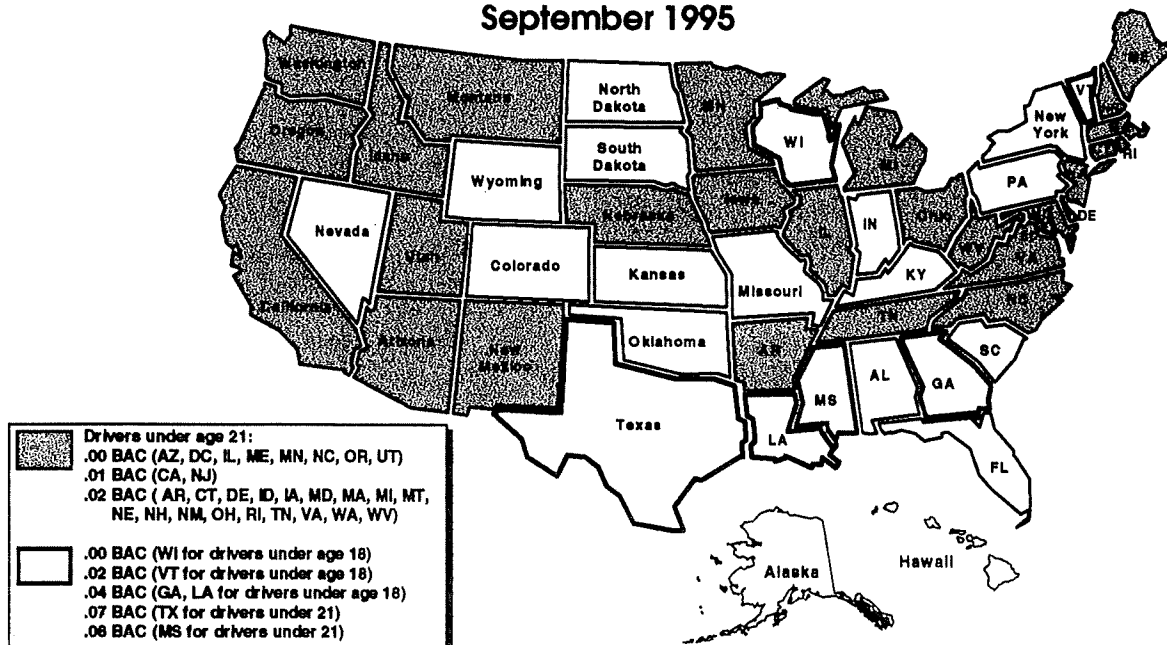
States with Special Laws for Youth

Twenty-seven States and the District of Columbia have set the BAC limit at .02 or lower for drivers under age 21: Arizona, Arkansas, California, Connecticut, Delaware, District of Columbia, Idaho, Illinois, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, North Carolina, Ohio, Oregon, Rhode Island, Tennessee, Utah, Virginia, Washington, and West Virginia. To correspond to age 21 alcohol purchase laws, NHTSA supports the use of age 21 as an appropriate threshold for lower BAC limits and longer suspension periods.

How The Laws Work

Typically, zero tolerance laws provide that any amount of alcohol in the body of a driver under age 21 (generally measured as 0.02% BAC or greater) is an offense for which the driver's license may be suspended for a period varying from 10 days to three months. These laws should allow a police officer to require a breath test from any driver under the age of 21, if

States with Lower BAC Levels for Youthful DWI Offenders September 1995



How The Laws Work *(continued)*

the officer has probable cause to believe that the individual has been drinking (and should not require that the officer have probable cause to suspect actual impairment). Refusal to take such a test should result in license suspension under implied consent or administrative license revocation (ALR) laws. In the 38 States and the District of Columbia with ALR laws, providing a sample that is positive for alcohol should result in license suspension under that law. Currently, States vary in whether the special BAC level for underage drivers is included in their ALR law.

Other States have taken the approach of extending the period of license suspension and increasing other penalties for underage youth without changing the BAC definition of an offense. Many States have extended the period of license suspension and also changed the BAC definition.

Cost Benefit Estimates

A NHTSA evaluation of the 0.02 law in Maryland has shown an 11 percent decrease in the number of drivers under age 21 involved in crashes who, police report, "had been drinking." A study of the four other States (Maine, New Mexico, North Carolina, and Wisconsin) revealed a 34 percent decline in adolescent night fatal crashes during the post-law years compared to only a 7 percent decrease in adult night fatal crashes.

Making any amount of alcohol in the body of an underage person an offense can make the enforcement effort easier. If the officer has any reason to suspect that the individual has been drinking, he or she can demand a breath test and take action to arrest the underage driver. Passive sensors, which can detect low BACs, permit the police to identify individuals with small amounts of alcohol in their bodies. This has the potential to reduce enforcement and adjudication time and expense, particularly if handled in an administrative process.

Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991

ISTEA provides incentive grants to States that achieve at least five of the following six criteria:

- An expedited administrative procedure for suspending the license of drunk drivers;
- A law setting a 0.10 blood alcohol concentration as evidence of driving while intoxicated (after three years, it must drop to .08);
- A statewide sobriety checkpoint program;
- A self-sustaining drunk driving prevention program;
- A program to prevent drivers under age 21 from obtaining alcoholic beverages; and
- A mandatory sentence of 48 consecutive hours in jail or not less than 10 days of community service for any person convicted of DWI more than once in any five year period.

States can also earn supplemental grants, one of which is based on **adopting a 0.02 blood alcohol concentration limit for drivers under age 21.**

Information Sources

A number of national organizations and reports have supported legislation of this type. The organizations and reports are as follows:

Lower BAC Limits For Youth: Evaluation of the Maryland .02 Law. NHTSA Report Number DOT HS 807 860, March 1992. (Technical Summary, DOT HS 807 859, March 1992.)

"Reduced BAC Limits for Young People (Impact on Night Fatal Crashes)", Alcohol, Drugs, and Driving, R. Hingson, et al., Vol. 7 No. 2, pp 117-127.

Lower Legal Blood Alcohol Limits for Young/ Drivers", R. Hingson, et. al., Vol 7 No. 2, pp 117-127.

"NHTSALINE - Zero Tolerance", 11-minute video produced by USAA.

These reports and additional information are available through your State Office of Highway Safety, the NHTSA Regional Office serving your state, or from NHTSA Headquarters, Traffic Safety Programs, NTS-21, 400 Seventh Street, S.W., Washington, D.C. 20590, 202-366-9588.

KANSAS TRAFFIC SAFETY FACTS 1994 YOUNG DRIVERS - 15-20 YEARS OLD

- In 1994, young drivers accounted for 30 percent of all motor vehicle crashes while making up only 10 percent of the driving public. Young drivers were involved in almost 20,000 crashes.
- This age group accounted for 21 percent of all motor vehicle deaths. Of the 442 total fatalities in 1994, 92 were between the ages of 15 and 20 years.

ALCOHOL RELATED

- In 1994, young drivers accounted for 15 percent of all alcohol-related motor vehicle crashes, as reported by police. These young drivers were involved in more than 500 alcohol-related crashes.
- This age group accounted for 17 percent of all alcohol-related motor vehicle deaths. Of the 109 total alcohol-related fatalities in 1994, 19 fatalities were between the age of 15 and 20 years.
- 380 people in this age group were injured in alcohol-related motor vehicle crashes. This accounted for 12 percent of the total alcohol-related injuries, or 3,084.
- In 1994, the alcohol involvement rate for these young drivers, based on the total licensed driver population, was about twice that of the over 21 age driver.

YOUNG DRIVER CRASH CAUSATION/CHARACTERISTICS

- Most commonly reported driver error-related causes of crashes were carelessness or inattention, failure to yield right-of-way, and speed.
- Most crashes occurred between 2:00 P.M. and 6:00 P.M., on Friday or Saturday, on local streets, in an urban setting, and on dry pavement.
- Male drivers are more likely than female drivers to be involved.
- Most young drivers killed were not wearing safety belts.

**HOUSE BILL 2603
ZERO TOLERANCE**

My name is Stan Stewart, speaking on behalf of Kansas MADD as a proponent of House Bill 2603. We ask for passage of House Bill 2603, Zero Tolerance which would establish a .02 BAC for those under 21. Why is there a need for "zero-tolerance" laws for underage 21? There is a real need for a consistent message to our youth that we do not want them drinking before the age of twenty-one, nor drinking and driving. We need to reduce the alcohol-related deaths and injuries due to drinking and driving. It is illegal for anyone under twenty-one to possess, consume, obtain or purchase alcoholic beverages. All fifty states and the District of Columbia now have laws that prohibit the purchase and public possession of alcoholic beverages by those under the age of twenty-one; therefore it would seem reasonable to expect drivers under that age of twenty-one to have no alcohol in their systems. Reasonable, yes; however, that is not what our current law communicates. Our current BAC law says to youth "You can drink 'some'". Currently, minors arrested for DUI are subject to the same laws as adults, which is a BAC of .08. In most instances, a minor stopped for DUI would not be arrested for DUI unless a BAC was .08 or higher. A lower BAC needs to be established to communicate to drivers under the age of twenty-one that we want a clear message of no drinking of under the age of twenty-one.

Since the minimum age to purchase alcohol has been raised to twenty-one, per capita arrests rates for driving under the influence for persons ages 18 to 20, which includes alcohol and other intoxicants, have decreased by twenty-one percent. It has made a difference, and we need to continue to go further by communicating a clear and consistent message for our

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Attachment 2

youth. A lower BAC of .02 would enforce that no one under the age of twenty-one should even be drinking, and certainly not drinking and driving.

Is drinking for under the age of twenty-one a problem? Yes, there is a distinct problem in our state with under age drinking. (NOTE: HANDOUT) If you look at the 1994 statistics, there were 3,627 reported liquor violations for individuals under the age of twenty-one. There were 1,800 drivers under the age of twenty-one who were arrested for DUI. Keep in mind that this number does not include those with BACs lower than .08. There were 1,325 teenagers who were either drivers or passengers in alcohol-related crashes. There were 24 under the age of twenty-one who were killed in alcohol-related crashes in 1994. There were 529 under the age of twenty-one who were seriously injured in alcohol-related crashes. MADD was before this legislative body asking your assistance in passing a lower BAC for under age twenty-one. We have a real concern when looking at the 1994 stats. For the first time since 1986, we see an increase in alcohol-related fatalities and crashes involving those under the age of twenty-one. Over 70% of our teenage drivers involved in alcohol-related crashes, fatalities, and/or injuries are drinking drivers.

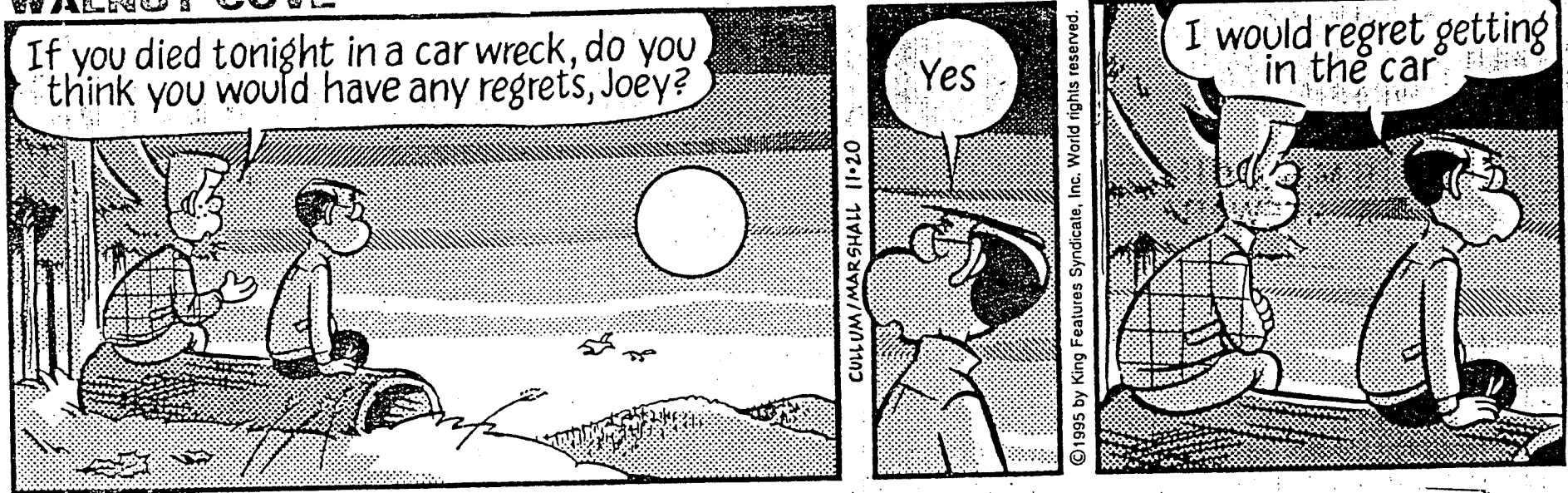
Young people under the age of twenty-one are still greatly over represented in alcohol-related crashes and fatalities. Young people between the ages of 15-24 are the only group in America with a declining life expectancy. The primary causes of death are accidents, suicide, and homicide, and they are directly related to the illegal use of alcohol and other drugs. House Bill 2603, Zero Tolerance, would establish a .02 BAC for under age twenty-one. MADD supports this which models what twenty-seven other states and the District of Columbia have done in lowering their BAC limits for under age drivers. Why a lower BAC for youth, besides the obvious that they shouldn't be drinking under the age of twenty-one. Let the simple fact that

a teenage driver, mile for mile, is a high risk operator; this doubles when you combine drinking and driving.

The most dramatic increase in a crash risk occurs at a BAC of .05 and above. At a BAC of .05 to .07 the risk of fatal crash involvement for the teenage driver is approximately four times that of an older driver. The 1994 statistics show that there was a 28% increase in alcohol-related crashes for drinking drivers who were 17 and under. A real concern is those under 20 who were riding with drinking drivers - these are passengers. Passenger involvement increased approximately 9% while fatalities increased 275%, injuries increased 12%. This is a large number of alcohol-related crashes involving a large number of passengers which resulted in significant, significant, increase in fatalities over last year.

Our youth need to hear a clear message "No drinking under the age of 21" and "No drinking nor driving under the age of 21". Let's join the other states who have adopted lower BACs, particularly those states that have .02 BAC who have shown a decrease in the alcohol fatalities and injuries in their states. (NOTE: MAP) Maryland has shown a 11% decrease in the number of alcohol-related crashes involving those under 21. Another study showing four other states revealed a 34% decline in adolescent night fatal crashes. Let's join them to communicate a clear message to our youth, because anything other than Zero Tolerance, .02 BAC, is a mixed message.

WALNUT COVE



1994

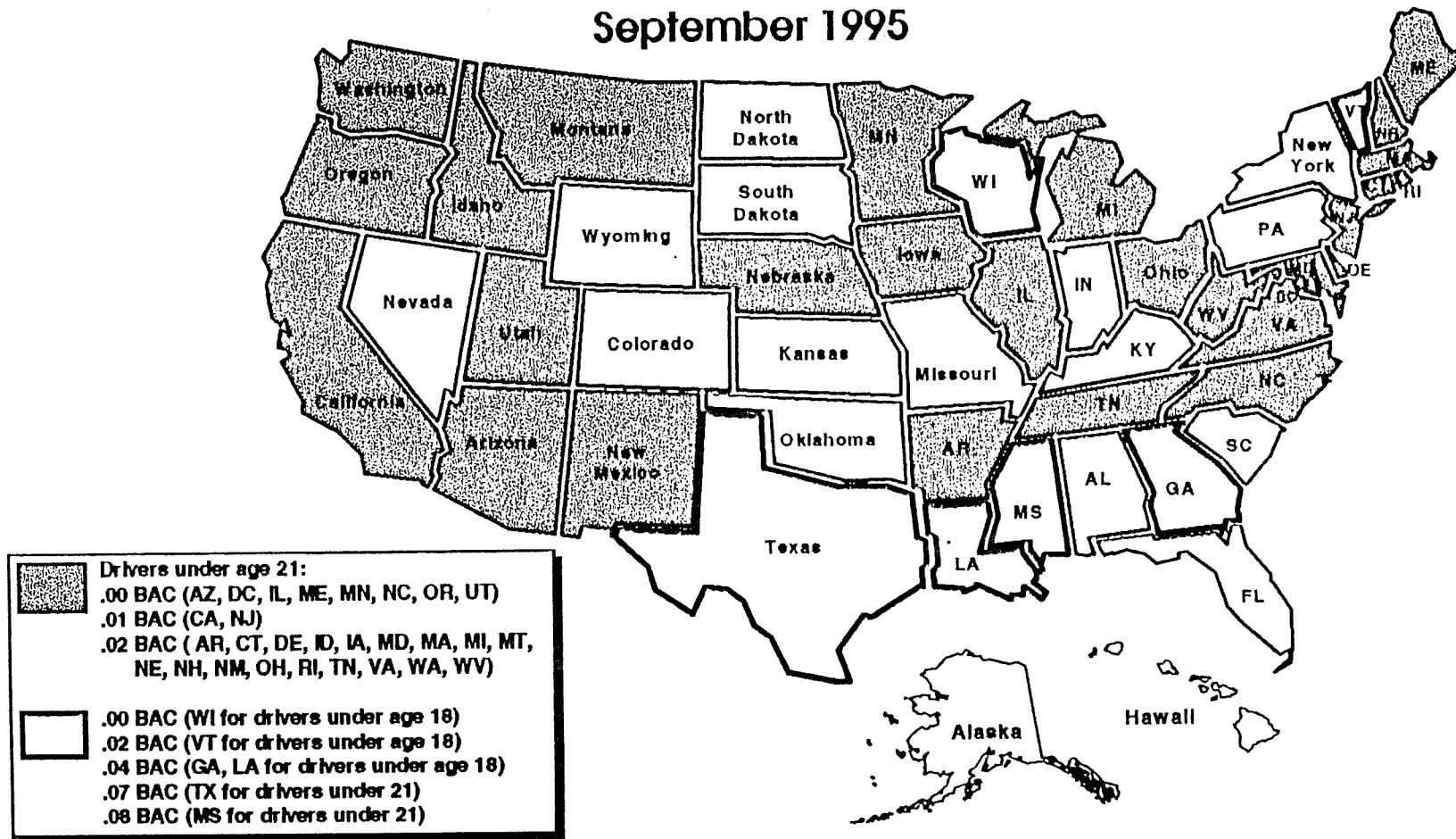
1,800 drivers under 21 were arrested for
DUI

1,325 teenagers were drivers/passengers in
alcohol-related crashes

24 were killed
529 were injured

3,627 Reported Liquor violations
for individuals under 21

States with Lower BAC Levels for Youthful DWI Offenders September 1995



SOURCE: NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
U.S. DEPARTMENT OF TRANSPORTATION (SEPT. 1995)



Department of Health and Environment

James O'Connell, Secretary

Testimony presented to
House Judiciary Committee
by
The Kansas Department of Health and Environment
House Bill 2603

The intent of HB2603 is to establish a deterrent against the consumption of alcohol by younger drivers through administrative suspension of license at the lowest level of alcohol which is technically and judicially defensible.

Currently, twenty-nine states and the District of Columbia have established lower alcohol tolerance limits for drivers younger than 21. The experience of several states has generally been favorable in reducing alcohol-related highway deaths and injuries. In addition, some epidemiologic evidence published in the Journal of the U.S. Public Health Service shows a lower incidence of alcohol-related fatalities in younger drivers in states which have established 0.00 or 0.02% tolerance levels.

Currently established DUI programs in Kansas, including those analytical quality assurance components managed at the Kansas Department of Health and Environment, are focused on the prosecution of 23,000 impaired drivers who are arrested on our highways each year. Although traditional roadside sobriety tests which are used to indicate alcohol impairment will not be applicable to the detection of very low alcohol levels, physical evidence and the use of preliminary breath test devices may help to establish probable cause for arrest. At the same time, however, we must be acutely aware of the fact that rigorous operation of the proposed deterrent effort will require staff resources from all

program components during these times of fiscal restraint and that funding for support of this change in tolerance level is not currently included in the KDHE budget as submitted.

To accomplish the quality assurance components managed by the Department of Health and Environment, additional operator training will be required to ensure that low level alcohol tests are court defensible. It will also be necessary to prepare an increased amount of standards for use in the continuing calibration of each of the 182 evidential instruments. The certification officer will be required to spend an estimated 20% additional time at each of the instrument sites to ensure proper calibration, and breath alcohol program record keeping and reporting will increase as well. Together, these additions to program operation will require an estimated one-half of an FTE.

Finally, Kansas evidential instruments which are operating under optimal conditions can be expected to detect ethyl alcohol at a level of $0.02\% \pm 0.005\%$. However, this level may be difficult to achieve routinely with some older instruments. Kansas currently has 182 evidential instruments in operation throughout the state. Eight of these models are more than eight years old and will need to be replaced as soon as possible. It will cost approximately \$6,000 to replace each of the older models. The 1995 legislature created an instrument/equipment fee fund, but as of October 1, 1995, the fund had only \$3,000 dollars accumulated. The amount of dollars directed into this fund appears to be insufficient to replace outdated instruments within a reasonable time frame.

The Kansas Department of Health and Environment supports the deterrent concept which is proposed in HB2603.

Testimony presented by:

Roger H. Carlson, Ph.D., Director
Kansas Health and Environmental Laboratory
January 23, 1996



State of Kansas

Office of the Attorney General

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CARLA J. STOVALL
ATTORNEY GENERAL

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STATEMENT OF
DEPUTY ATTORNEY GENERAL DAVID B. DEBENHAM
BEFORE THE HOUSE JUDICIARY COMMITTEE
RE: HOUSE BILL 2603
JANUARY 23, 1996

Dear Chairperson Mike O'Neal and Members of the Committee

I appear before you today on behalf of Attorney General Carla J. Stovall, to ask for your support of House Bill 2603. This bill would, in essence, create a zero alcohol tolerance level for drivers less than 21 years of age.

One of the most important dates in the life of the youth of our society is the day they have the ability to obtain their drivers license. Concurrent with this privilege is the duty and requirement to follow the traffic laws of this state. Unfortunately, our younger drivers do not always foresee the dangers of drinking and driving.

Those of us who have been driving for a number of years realize the dangers of drinking and driving. We have become aware of these dangers through the devastating effects that drinking and driving have had on the victims of automobile accidents.

According to the National Highway Traffic Safety Administration, more than 35% of all deaths of 15 to 20 year olds result from motor vehicle crashes. In 1994, 37.6% of the 6,226 traffic fatalities of 15 to 20 year olds were alcohol-related. What this means is that 2,343 traffic fatalities in this age group were alcohol-related last year. Quite frankly this is 2,343 deaths that could have been prevented.

The NHTSA also noted that in 1994, 22% of the 15 to 20 year old drivers involved in fatal crashes had some alcohol in their blood. This report further stated that, based on the

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total licensed driver population, the alcohol involvement rate for young drivers is about twice that of the over 21 age driver.

Over the last few years our society has started to change its outlook about drinking and driving. Education provided by groups such as MADD and SADD and the enactment of stricter DUI laws have seen the term "designated driver" used much more frequently than in the past.

We also owe it to our youth to make sure that they realize the dangers of drinking and driving. This bill addresses the youth of our society. It is already illegal for those under 21 years of age to consume or purchase alcoholic liquor or cereal malt beverages. This bill goes one step further and makes clear that it is also against the law to drive after drinking.

On behalf of the Attorney General, I urge your favorable consideration of House Bill 2603.

Kansas Highway Patrol
Summary of Testimony
1996 House Bill 2603
before the
House Judiciary Committee
January 23, 1996

Good afternoon Mr. Chairman and members of the Committee. My name is Lieutenant Sam Grant and I appear before you on behalf of Colonel Lonnie McCollum, Superintendent of the Kansas Highway Patrol, in support of HB 2603. HB 2603 lowers the blood alcohol concentration threshold for those under 21 to .02%.

As a traffic safety agency, the Patrol is concerned about safety on our state's highways. Each year impaired driving causes many problems and results in many deaths and injuries across Kansas. Unfortunately, as noted by previous conferees, youthful drivers are involved in many alcohol related crashes .

Many states throughout the country have already established lower blood alcohol concentrations for youthful drivers. Studies show that these laws coupled with public information and enforcement can lead to a reduction in total alcohol related fatalities. In fact, the National Highway Traffic Safety Administration reports that a recent study of twelve states with lower limits for youth indicated a 20% reduction in alcohol related fatal crashes among drivers under age 21.

Much has been done in recent years to combat the drinking driver problem in Kansas and we feel that the .02% provision contained in House Bill 2603 is the next logical step in that progression. In addition to laws making it illegal for persons under 21 to purchase and publicly possess alcoholic beverages, the provisions of HB 2603 will improve highway safety by making it clear that drinking and driving by those under 21 is not acceptable in Kansas.

I would be glad to answer any questions the committee may have.

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Testimony

**House Judiciary Committee
January 23, 1996**

House Bill 2603

Good afternoon Chairman O'Neal and Members of the Committee:

My name is Gene Johnson and I am the Legislative Liaison for the Kansas Community Alcohol Safety Action Project Coordinators Association. It is my pleasure to appear before you this afternoon in support of HB 2603.

The Kansas Community Alcohol Safety Action Project Coordinators Association is composed of members throughout the State of Kansas who conduct the pre-sentence alcohol and drug evaluations for those persons convicted of or who receive a diversion from, the charge of DUI, under K.S.A. 8-1567. In addition we conduct alcohol and drug evaluations for the courts throughout the State for those persons under the age of 21 who have violated our Kansas Alcohol and Drug Laws.

HB 2603 is another measure designed to save lives and prevent alcohol related crashes in the State of Kansas.

The International Association of Chiefs of Police report that 15 to 20 year olds, throughout the United States, make up 7% of the National driving population and are involved in 14% to 16% of all fatal accidents. This Association also found that 25% to 30% of fatalities involving 15 to 20 year olds, are alcohol related.

The 1994 report on Kansas Communities That Care Survey indicated that by age 12, 40.5% have tried alcohol at least on one occasion.

By age 14, (limited driving privileges are possible at this age) 66.2% have tried alcohol at least on one occasion.

By age 16, 80% of all Kansas teenagers(full driving privileges) have tried alcohol at least once.

HB 2603 will be an excellent intervention measure to deter our young Kansas drivers, under the age of 21, from breaking the alcohol and drug laws of our State. In lowering the BAC level to .02% on this age group we clarify that any alcohol consumption by persons under the age of 21 who attempt to operate a motor vehicle, is illegal in the State of Kansas. Offenders will lose their driving privileges for a period of time, as well as be prosecuted for DUI.

We would recommend this Committee consider adding language to this proposed legislation to require an alcohol and drug safety action education program to consist of at least eight hours of instruction for those persons who are convicted of the first offense of DUI or who have received a diversion from the charge of DUI, both on the State or on the Municipal Court levels.

Any Alcohol and Drug Information School providing less than eight hours of education is simply not getting the job done. The sole purpose of the Alcohol and Drug Information School is to provide quality education to those persons who have violated Kansas Alcohol and Drug Laws and to prevent further violations of our DUI statute.

Our organization feels that in order to accomplish this, a minimum of eight hours of education and information should be offered.

Again, Mr. Chairman, and members of the Committee, we support HB 2603 as a traffic safety measure and our proposed amendment as a positive educational component to our DUI statutes.

I will attempt to answer any questions at this time.

Respectfully submitted,



Gene Johnson

Legislative Liaison

Kansas Community Alcohol Safety Action Project Coordinators Association

Students Against Drunk Driving

Good morning and thank you for allowing me to come and speak with you today on behalf of the Students Against Drunk Driving organization. My name is Rhonda Mongold. I am a Senior at Seaman High School and President of the Kansas SADD chapter of the year. Let me share with you two of the main goals our organization believes in. First of all, we promote a strong no-use message among teenagers. Teenagers are not of legal age to consume alcohol. Secondly, and even more importantly, we want to eliminate drunk drivers and save lives. Our group strives to keep high school students and the community aware of the dangers of drinking and driving. We sponsor events, distribute literature, and work diligently throughout the year to combat this problem.

Consumption of alcohol by minors is all too common. Many teenagers are able to obtain alcohol quite easily. Older brothers and sisters, fake ID's, lenient store owners, and even some parents will provide alcohol to minors. A great number of high school parties involve teenagers drinking alcohol. Afterwards, many young people get behind the wheel of a car without any regard to the dangers they may be facing. In Kansas, a person is involved in an alcohol related crash every three hours. That means two out of every five Kansans will be in an alcohol related crash sometime during their lives. The worst part is that 50% of the people killed in alcohol related accidents are not the drunk drivers. Teens have to get the message that underage drinking is not an option and that drinking and driving will not be tolerated.

Alcohol is still the number one drug choice among America's youth and still continues to be the number one killer between the ages of 16 and 24. In an ideal world we could believe that teens won't drink alcohol and if they did drink, they wouldn't drive. We could hope that they'd call their parents to come pick them up rather than drive intoxicated. But, the fact is they don't! Most teens would rather take their chances on the road than face getting in trouble at home. At age 15, the average teenager is not mature enough to think about the consequences of drinking and driving on their own. Many lack the driving skills that age and experience would give them. Often cocky and self-confident, they believe that a couple of beers is, "No big deal." But in actuality, after two beers the average teen is driving impaired - and they are legally drunk after only three.

Passing legislation that would not tolerate underage drinking is a step in the right direction. If young people know that there will be legal consequences to their actions they would be more likely to think twice about having that beer.

I don't drink alcohol and therefore I don't drink and drive. But, I've been to high school parties and I've seen many teenagers drink and get in their cars and drive home. I and others in my organization can only prevent so many from endangering their lives and the lives of others. We need help, and the government needs to get involved. I urge you to fully consider House Bill Number 2603 and see its way to passage. If even one life is saved as a result of this legislation, then it must be passed.

For More Information Contact:
Canda Byrne, MSN, ARNP,CS
Legislative Representative
P. O Box 1732
Topeka, Kansas 66601
(913) 235-2400
January 23, 1996

HB 2603 An Act Concerning Alcohol or Drug Related Offenses

Representative O'Neal and members of the Judiciary Committee, my name is Canda Byrne. I am here representing the Kansas Alcoholism and Drug Addictions Counselors Association and the Kansas Alliance on Alcohol and Other Drug Services, Inc. to lend our support for HB 2603 which changes the blood alcohol concentration level to .02 for persons under the age of 21.

We know that by the time the alcohol blood level reaches .05 thought, judgement and restraint are effected. There is decreased reflex action and changes in depth perception leading to increased risk for accident involvement.

In 1994, our most recent statistics, there were a total of 1,794 DUI arrests of persons 21 years of age and younger, 273 of those were children 17 years old and younger and 1,521 were between the ages of 18 and 20. That same year there were 543 alcohol related traffic accidents involving young adults age 21 and younger (131 age 15-17 and 412 age 18-20). Of those 543 accidents 13 caused a death and 231 led to injuries.

One would assume that with the passage of this bill the number of DUI arrests will increase for those under the age of 21. Hopefully, this also will mean the number of young drivers under the age of 21 who will receive education about drinking and driving will increase, and the 543 alcohol related car accidents reported in 1994 with 13 deaths will dramatically decrease.

Kansas laws are reactive and only require alcohol and drug education after an arrest. Laws do not stop young people from drinking or even from drinking and driving but hopefully the education that follows an arrest through diversion programs and the loss of driving privileges at an .02 alcohol level will stop our young folks from driving after drinking.

Thank you for allowing me to speak in support of HB 2603. I would be glad to answer any questions.

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HB 2603

I am Frances Wood, volunteer lobbyist for the Woman's Christian Temperance Union of Kansas. Our group supports HB 2603, the lowering of blood-alcohol concentration to 0.02 for drivers under 21. (Actually, for all drivers).

Statistics tell us that every two weeks an estimated 40% of high school seniors consume five or more drinks in one sitting. It doesn't take much alcohol to have your judgment impaired.

Pure logic would indicate this bill is appropriate. Consumption of alcoholic beverage under 21 is illegal, therefore why wouldn't any amount of blood-alcohol be illegal?

Punishment should be certain and enforced. Teenagers do not like to be without a driver's license. If driving on a revoked license occurs, there should be stiff penalties so that it sends a clear message that this activity will not be tolerated.

Thank you for your support of HB 2603.

1. Tufts University Diet and Nutrition Letter as quoted in the Health Hints published by Blue Cross and Blue Shield.



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the Voice of Nursing in Kansas

Betty Smith-Campbell, M.N., R.N., ARNP
President

Terri Roberts, J.D., R.N.
Executive Director

FOR MORE INFORMATION CONTACT:
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Executive Director
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Topeka, KS 66603-3731
(913) 233-8638
January 23, 1996

H.B. 2603 DRIVERS UNDER 21 BLOOD ALCOHOL CONCENTRATION OF .02 OR GREATER

Chairperson O'Neal and members of the House Judiciary Committee my name is Terri Roberts and I am a registered nurse and the Executive Director of the Kansas State Nurses Association. The Kansas State Nurses Association supports H.B. 2603 which would reduce the current blood alcohol level to .02 for a DUI conviction for drivers under the age of 21.

From 1993 to 1994 there was a 17.8% increase in alcohol related crashes involving drinking drivers under the age of 20. Drinking drivers 17 years of age and younger involved in alcohol-related crashes increased 28% during the same time.

The good news is, deaths for drinking drivers under the age of 20 declined by 12.5%. The bad news is, injuries increased 18.6%. Unfortunately the injuries and deaths don't just occur to the drinking drivers, **passenger involvement in alcohol-related crashes for drivers under the age of 20 increased by 9% and deaths increased 275% from 1993-1994.** Injuries to passengers riding with drivers under the age of 20 increased 12%.

DUI arrests of juveniles is up 8% with 254 in 1993 and 273 in 1994. The greatest increase in that population is among females. From strictly an age perspective, in 1994, there were three DUI arrests for children 10 and under, one for ages 10-12, one for ages 13-14, ten for 15 year-olds, sixty-seven arrests for 16 year olds and 191 arrests for 17 year olds. In 1994 Kansas lost one 16 year-old and six 18-19 year-olds to alcohol-related motor vehicle drinking drivers.

Kansas State Nurses Association
Testimony on H.B. 2603
Page 2

Now I would like to share with you a professional experience with a death from an alcohol-related crash by a drinking driver under the age of 21. One of the hardest things I have ever done in my nursing career involved an underage alcohol related patient and his family.

I worked as a critical care nurse in a coronary unit, twelve hour shifts, 7 p.m. to 7 a.m. and one weekend in May early in my nursing career, I took report on the only patient I was assigned to that night, a severely head-injured and traumatized alcohol-related crash victim. The young man was only a couple of years younger than I and had been in the operating room most of the night before with a neurosurgeon working tirelessly to keep him alive. He had tenuously survived the first 12 hours and my job was to monitor him and help him through the next 12 hours. His family sat vigilantly at his bedside during the 30-minute intervals, every four hours, and remained quietly in the visitor's lounge, comforting one another. As you know, the first 24-48 hours with any kind of trauma related injury to the brain is a significant time for outcome determination with these kinds of injuries.

By 4:00 or 5:00 in the morning, I had to wake the neurosurgeon several times to discuss declining vital signs and increased intracranial pressure. By early morning, despite modern medicine and the best technology, this young man's family was going to have to say goodbye to him.

He had been attending a siblings graduation ceremonies and had been included in the post-graduation celebration, even though he was under age. He had attempted to drive home alone with a significant alcohol content in his blood stream.

As dawn approached and the nurse for day shift joined me at 6:45 a.m., we discussed how to best talk with the family about the prognosis. She accompanied me as I went to talk with the family and tell them about the patient's rapidly changing status. With the blessing of the surgeon, they said their goodbyes and shortly thereafter he died.

It seemed senseless then and it seems senseless now. To this day that nurse and I vividly recount the difficulty we experienced in maintaining our composure to assist the family as they dealt with this tragedy.

Nurses support the public policy surrounding H.B. 2603, which sends a clear and decisive message related to underage drinking and being in the driver's seat of a motor vehicle under the influence of alcohol.

We encourage your swift adoption of H.B. 2603. Thank you.



STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS

Office of the Secretary
900 SW Jackson, Suite 502
Topeka, KS 66612
913/296-2281 FAX 913/296-6953



Representative Mike O'Neal, Chairman
House Judiciary Committee
Room 170-W
State Capitol Building
Topeka, KS 66612

January 29, 1996

Dear Chairman O'Neal:

The Department of Wildlife and Parks is requesting amendments to H.B. 2603 to include boating under the influence. Alcohol is a factor in about half of the boating accidents and has had bearing on boating related fatalities. Although involving all age groups, the younger ages figure prominently in alcohol related accidents. Lowering the blood alcohol level for those boat operators under 21 years of age to .02 should help lower the number of accidents that occur on Kansas waters.

Two Department boating statutes (K.S.A. 32-1131 and K.S.A. 32-1134) would be involved. Copies of those statutes are attached with possible amendment language noted.

The Department would be most pleased to provide any assistance needed to draft amendment language should the Judiciary Committee desire to pursue this proposal. If the Judiciary Committee desires not to amend H.B. 2603 to include amendments related to boating under the influence, then the Department would request development of an independent bill limited in scope to such amendments. In no manner do we want to slow down the consideration process on H.B. 2603, but we do recognize this as an opportune time to address a significant problem with alcohol abuse related to boating.

Thank you for your interest in boating safety.

Sincerely,

Steve Williams
Secretary

xc: Governor Bill Graves

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1-23-96
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32-1131. Same; crime. (a) No person shall operate or attempt to operate any vessel within this state while:

(1) The alcohol concentration in the person's blood or breath, at the time or within two hours after the person operated or attempted to operate the vessel, is ~~0.08 or more;~~ *0.02 or greater, if such person is less than 21 years of age, or*

(2) under the influence of alcohol;

(3) under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely operating a vessel; or

(4) under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely operating a vessel.

(b) No person shall operate or attempt to operate any vessel within this state if the person is a habitual user of any narcotic, hypnotic, somnifacient or stimulating drug.

(c) If a person is charged with a violation of this section involving drugs, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.

(d) No person shall operate or attempt to operate any vessel within this state for three months after the date of refusal of submitting to a test if such person refuses to submit to a test pursuant to K.S.A. 32-1132, and amendments thereto.

(e) Violation of this section is a misdemeanor punishable:

(1) On the first conviction, by imprisonment of not more than one year or a fine of not less than ~~\$100~~ nor more than \$500, or both; and *\$200*

(2) on the second or a subsequent conviction, by imprisonment for not less than 90 days nor more than one year and, in the court's discretion, a fine not exceeding ~~\$500~~ *\$1,000*

(f) In addition to any other penalties prescribed by law or rule and regulation, any person convicted of a violation of this section shall be required to satisfactorily complete a boater education course of instruction approved by the secretary before such person subsequently operates or attempts to operate any vessel.

History: L. 1987, ch. 403, § 2; L. 1993, ch. 259, § 10; July 1.

32-1134. Same; use as evidence. In any criminal prosecution for violation of the laws of this state relating to operating or attempting to operate a vessel while under the influence of alcohol or drugs, or both, or the commission of manslaughter while under the influence of alcohol or drugs, or both, or in any prosecution for a violation of a city ordinance relating to the operation or attempted operation of a vessel while under the influence of alcohol or drugs, or both, evidence of the concentration of alcohol or drugs in the defendant's blood, urine, breath or other bodily substance may be admitted and shall give rise to the following:

(a) If the alcohol concentration is less than ~~.10~~; that fact may be considered with other competent evidence to determine if the defendant was under the influence of alcohol, or both alcohol and drugs.

(b) If the alcohol concentration is ~~.10 or more~~, it shall be prima facie evidence that the defendant was under the influence of alcohol to a degree that renders the person incapable of safely operating a vessel.

(c) If there was present in the defendant's bodily substance any narcotic, hypnotic, somnifacient, stimulating or other drug which has the capacity to render the defendant incapable of safely operating a vessel, that fact may be considered to determine if the defendant was under the influence of drugs, or both alcohol and drugs, to a degree that renders the defendant incapable of safely operating a vessel.

History: L. 1987, ch. 403, § 5; July 1.

← .02, if the defendant is less than 21 years of age, or .08, if the defendant is 21 or more years of age,

← .02 or greater, if the defendant is less than 21 years of age, or .08 or greater, if the defendant is 21 or more years of age,

TO: House Judiciary Committee
FROM: R.E. "Tuck" Duncan
Kansas Wine & Spirits Wholesalers Association
RE: H.B. #2603

Congress enacted and the President approved the National Highway System Designation Act of 1995 wherein it provides at 161 the following:

Operation of motor vehicles by intoxicated minors.

(a) Withholding of apportionments for noncompliance.

(1) Fiscal Year 1999. The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (5)(B) of section 104(b) on October 1, 1998, if the State does not meet the requirement of paragraph (3) on that date.

(2) Thereafter. The Secretary shall withhold 10 percent (including any amounts withheld under paragraph (1) of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (5)(B) of section 104(b) on October 1, 1999, and on October 1 of each fiscal year thereafter, if the State does not meet the requirement of paragraph (3) on that date.

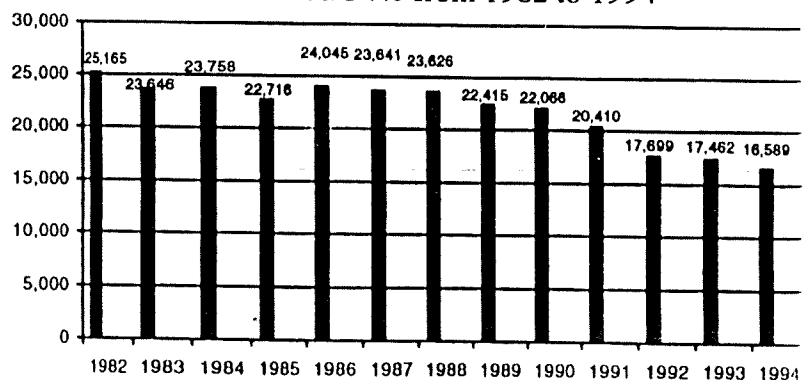
(3) Requirement. A State meets the requirement of this paragraph if the State has enacted and is enforcing a law that considers an individual under the age of 21 who has a blood alcohol concentration of 0.02 percent or greater while operating a motor vehicle in the State to be driving while intoxicated or driving under the influence of alcohol.

Long before the term "social responsibility" became fashionable in the lexicons of academia, our industry has urged moderation, restraint and temperate use of its products. State and local officials and leaders of the public and private groups must continue with a systematic view of the problem recognizing the inter-relationships between legal, health, public information, educational and technological responses to the problem.

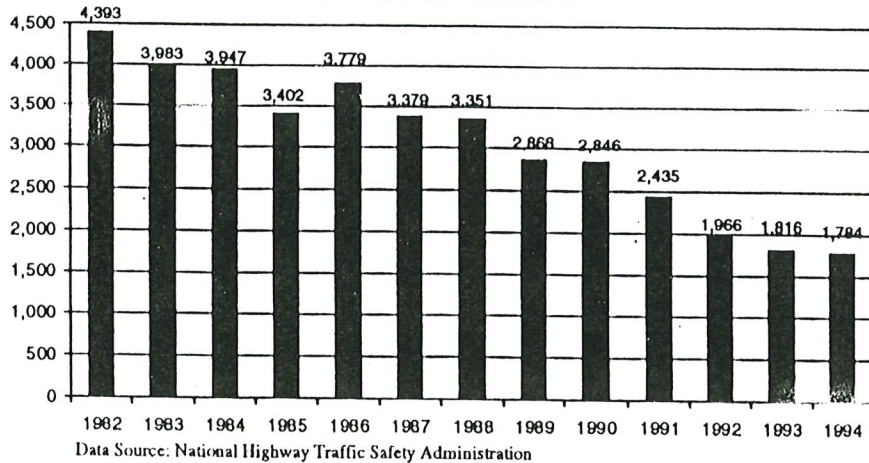
Progress has been made in the last decade, namely impressive reductions in alcohol related fatalities and significant reductions in highway fatalities involving young teenage drivers. (Reference: National Highway Traffic Safety Administration).

Even as the number of miles driven in the U.S. has increased, the number of alcohol-related fatalities has declined by a dramatic 34% from 1982 to 1994. While the 1994 figure remains unacceptably high, it does

Alcohol-Related Traffic Fatalities
Declined 34% from 1982 to 1994



Drivers Under 21 Involved in Alcohol-Related Fatal Traffic Crashes



reflect the results of anti-drunk driving programs sponsored by government, prevention groups and the licensed beverage alcohol industry. The federal guidelines used to collect these data define "alcohol-related" as an accident in which anyone involved had a BAC of .01 (one-one hundredth of one percent). The number of young drivers (under 21) involved in alcohol-related fatal traffic crashes declined 59% from 4,393 in 1982 to 1,784 in 1994.

As many members of the Committee are aware our association has for years been actively engaged in efforts to deter purchases by underage persons at retail liquor stores. Some of the materials used in that effort are provided herewith.

We recognize that some form of this enactment will become law because of the pressure to receive highway funds. We would hope that state and local officials will use some of the funds received for enforcement and deterrent purposes for programs such as "Cops-in-Shop." These efforts in the long run will do more than arrests of persons under the legal drinking age.

Another concern we have is one that I addressed to this committee in 1993.

Typically a first offender will receive a diversion and a fine. However, when you take a breath test and fail or refuse to take such a test, a suspension of one's license results. As a result, pursuant to K.S.A. 40-277 (copy provided herewith), an insurance company may cancel it's policy where "the named insured or any other operator, either resident in the same household, or who customarily operates an automobile insured under the policy (a) has had such persons driver's license suspended or revoked during the policy period," or "(c)...is or has been convicted...for: (3) operating a motor vehicle while in an intoxicated condition..." A .02 for a child under these bills could cause their family disastrous financial hardship in securing a new policy, most likely through the Kansas Automobile Insurance Plan (KAIP).

You might say, "Well, that's his problem, he shouldn't have gotten the DUI." Unfortunately, it becomes all of our problem. It is my understanding that over 5% of motorists are uninsured. These lower limits of the BAC level could increase the percentage of uninsured and underinsured motorists in Kansas. It is reasonable to project that as the number of uninsured motorists become greater, uninsured motorist losses will increase and thus premiums for the rest of us may likewise increase. This new BAC level for this special class of individuals will probably cause more people to become part of the KAIP, and the



limits of coverage will generally decrease, which means fewer insured drivers and lower average coverage limits to protect the rest of us. Thus, what looks like a minor revision with negative effects for the few in this special class and positive effects for the many, may become a negative policy for all unless consideration is given to not applying the provisions of K.S.A. 44-277 to first time offenses.

Another issue that must be explored in further detail is the impact this new level will have on the employment prospects for these new offenders. Certain jobs in clubs, drinking establishments, and CMB restaurants might be unavailable. *Do we want to eliminate eligibility for certain employment when implementing the .02 threshold?* I suggest that the committee explore this area as well.

We must redouble our educational efforts, for as we have seen there have been dramatic reductions in the instances of alcohol related accidents and fatalities as a result of private and public efforts in the past decade. Please do not misunderstand – the loss of one life due to abuse of beverage alcohol cannot be tolerated. We merely ask that some of the unintended effects on the insurance and employment matters we have discussed be explored and attended to before implementing this law.

Thank you for your kind attention to and consideration of these matters.

40-277. Automobile liability insurance policies; limitations on policy conditions for cancellation. No insurance company shall issue a policy of automobile liability insurance in this state unless the cancellation condition of the policy or endorsement thereon includes the following limitations pertaining to cancellation by the insurance company:

After this policy has been in effect for 60 days, or if the policy is a renewal, effective immediately, the company shall not exercise its right to cancel the insurance afforded under (here insert the appropriate coverage references) solely because of age or unless

1. The named insured fails to discharge when due any obligations in connection with the payment of premium for this policy or any installment thereof whether payable directly or under any premium finance plan; or

2. the insurance was obtained through fraudulent misrepresentation; or

3. the insured violates any of the terms and conditions of the policy; or

4. the named insured or any other operator, either resident in the same household, or who customarily operates an automobile insured under the policy,

(a) has had such person's driver's license suspended or revoked during the policy period, or

(b) is or becomes subject to epilepsy or heart attacks, and such individual cannot produce a certificate from a physician testifying to

such person's ability to operate a motor vehicle, or

(c) is or has been convicted during the 36 months immediately preceding the effective date of the policy or during the policy period, for:

(1) Any felony, or

(2) criminal negligence, resulting in death, homicide or assault, arising out of the operation of a motor vehicle, or

(3) operating a motor vehicle while in an intoxicated condition or while under the influence of drugs, or

(4) leaving the scene of an accident without stopping to report, or

(5) theft of a motor vehicle, or

(6) making false statements in an application for a driver's license, or

(7) a third moving violation, committed within a period of 18 months, of (i) any regulation limiting the speed of motor vehicles, (ii) any of the provisions in the motor vehicle laws of any state, the violation of which constitutes a misdemeanor or traffic infraction, or (iii) any ordinance traffic infraction, or ordinance which prohibits the same acts as a misdemeanor statute of the uniform act regulating traffic on highways, whether or not the violations were repetitious of the same offense or were different offenses.

History: L. 1967, ch. 271, § 2; L. 1984, ch. 39, § 47; Jan. 1, 1985.