

Approved: 3-24-97  
Date

MINUTES OF THE HOUSE TRANSPORTATION COMMITTEE.

The meeting was called to order by Chairperson Gary K. Hayzlett at 1:30 p.m. on March 19, 1997 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Hank Avila, Legislative Research Department  
Bruce Kinzie, Revisor of Statutes  
Jackie Buchanan, Committee Secretary

Conferees appearing before the committee:

Lieutenant Terry L. Maple, Kansas Highway Patrol  
Clint Riley, Kansas Department of Wildlife & Parks  
R.E. "Tuck" Duncan, Kansas Wine & Spirits Wholesalers Association, Inc.

Others attending: See attached list

**SB 174 - Preliminary breath test; refusal; penalty**

The Chair opened the hearing on **SB 174**.

Lieutenant Terry L. Maple, Kansas Highway Patrol, presented testimony on behalf of Lonnie McCollum, Patrol Superintendent, Kansas Highway Patrol, to express support for **SB 174**. **SB 174** amends current law to change the penalty for refusing to submit to a preliminary breath test from a traffic infraction to a class C misdemeanor. Present law imposes a fine of \$30 plus \$45 court costs; changing to a class C misdemeanor would result in a possible fine up to \$500 and/or up to one month in jail, or both. (Attachment 1)

Clint Riley, Kansas Department of Wildlife & Parks, testified in support of **SB 174** as it addresses the State's boating laws. The provisions of **SB 174** bring the BUI laws in line with DUI laws including the use of a preliminary breath screening test. (Attachment 2)

Written testimony was submitted in support of **SB 174** by Diane Poot, State Chairperson, Kansas Mothers Against Drunk Driving. (Attachment 3)

R.E. "Tuck" Duncan, Kansas Wine & Spirits Wholesalers Association, Inc., testified in opposition to **SB 174** as it would become a criminal offense to refuse to take a preliminary breath test. He recommended increasing the fine as a traffic infraction, but remove the class C misdemeanor language from the bill. (Attachment 4)

The hearing was closed on **SB 174**.

**SB 118 - Terminal rent adjustment; clauses**

The Chair reopened **SB 118** for discussion and final action.

Representative Shore made a motion to amend **SB 118** to allow a Kansas bank to opt-out in a merger transaction involving an out-of-state bank making act to take effect and be in force after its publication in the statute book, and motion was seconded by Representative Humerickhouse.

Representative Aurand made a substitute motion to pass **SB 118** favorably, without an amendment, motion seconded by Representative Dillon, and motion failed.

Following discussion, the Chair called for a vote of Representative Shore's motion to amend **SB 118**, and the motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE TRANSPORTATION COMMITTEE, Room 526 -S Statehouse, at 1:30 p.m. on March 19, 1997.

Representative Shore made a motion to pass **SB 118** favorably, as amended, and motion was seconded by Representative Humerickhouse.

Representative Dillon made a substitute motion to table **SB 118**, motion seconded by Representative Ray, and the motion failed.

Representative Aurand made a substitute motion to pass **SB 118** without recommendation, as amended, motion seconded by Representative Ray, and motion failed.

The Chair called for a vote on Representative Shore's motion to pass **SB 118** favorably, as amended, and the motion carried.

Meeting was adjourned at 2:45.

# HOUSE TRANSPORTATION COMMITTEE GUEST LIST

DATE: March 19, 1997

NAME	REPRESENTING
Gene Johnson	Ks ASAP Assn.
TUCK DUNCAN	Ks. wife & spouse who belongs Assn.
T. Mapp	K.H.P.
Glenn Besta	Newton Chamber of Commerce
Mark Child	" "
Jim Lyle	B.L.F.
Phil Ryan	Newton COC
Marcella Andrus	Newton Chamber of Commerce
Tony GRABER	LEADERSHIP NEWTON
MATT TREASTOR	LEADERSHIP NEWTON
Karen Emerson	Leadership Newton
Luis Batthung	Leadership Newton
John C. Haly	Readership Shawnee
Leo Nieminski	" "
GARY CARTER	KDOR
Rick SCHEIBE	KDOR
Betty McBride	KDOR
Bill Watts	KDOT
Tom WHITAKER	Ks Motor Carriers Assn



**Kansas Highway Patrol  
Summary of Testimony  
1997 Senate Bill 174  
before the  
House Transportation Committee  
presented by  
Lieutenant Terry L. Maple  
March 19, 1997**

Good afternoon Mr. chairman and members of the committee. My name is Terry Maple and I appear before you on behalf of Patrol Superintendent, Lonnie McCollum, to express support for Senate Bill 174.

Senate Bill 174 amends current law to change the penalty for refusing to submit to a preliminary breath test from a traffic infraction to a class C misdemeanor. Presently, such refusal results in a statutory imposed fine of \$30 plus \$45 court costs for a total penalty of \$75. Changing the penalty to a class C misdemeanor would result in a possible fine up to \$500 and/or up to one month in jail, or both.

The Patrol and law enforcement in general, has experienced a trend in preliminary breath test refusals which can be partially attributed to inconsequential penalties. It is commonplace for many drinking drivers, especially repeat offenders, to routinely refuse preliminary breath tests knowing they risk only a traffic infraction conviction. These refusals reduce roadside evidence of impairment available to the police officer and often severely handicap the successful prosecution of those who violate Kansas' drinking and driving laws.

The Kansas Highway Patrol is dedicated to vigorous detection and prosecution of impaired drivers. In order to guarantee optimum success in that regard, strong statutory backing is necessary. The provisions of Senate Bill 174 will provide such backing by eliminating the incentive that currently exists for those who choose to drink and drive to refuse to submit to preliminary breath tests.

On behalf of Superintendent McCollum and all members of the Patrol, we respectfully request that in the interest of public safety, Senate Bill 174, as introduced, be recommended for passage. Thank you for the opportunity to appear before you this afternoon.

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*House Transportation  
Attachment 1  
3-19-97*



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



Senate Bill No. 174: Testimony

Presented to: House Committee on Transportation  
Provided by: Kansas Department of Wildlife and Parks  
Date: March 19, 1997

SB 174 addresses the penalty for refusing to submit to a preliminary breath test to determine the alcohol concentration of a person operating a vehicle. The bill also conforms the state's laws concerning boating under the influence of alcohol or drugs (BUI) with the state's laws concerning driving under the influence of alcohol or drugs (DUI), concerning provisions such as alcohol concentration limits and the use of preliminary breath tests. The Department of Wildlife and Parks supports the bill in its entirety, but would speak only to the provisions addressing the state's boating laws.

The bill's provisions addressing BUI were amended to the bill by the Senate at the request of Wildlife and Parks. These provisions would simply bring the BUI laws once more in line with DUI laws, by making the same adjustments the legislature has recently made to the driving laws. That is, an alcohol concentration level of .08 would constitute prima facie evidence of boating under the influence, persons less than 21 years of age would be prohibited from operating a vessel with an alcohol concentration of .02 or greater ("zero tolerance"), and the use of a preliminary screening test for BUI would be established to mirror the DUI laws.

In the past, BUI alcohol concentration limits have been consistent with those of DUI laws, and the only reason they were not adjusted at the same time as those of DUI laws seems to be simple oversight. Strong BUI laws are important to the state for much the same reason as are strong DUI laws: Kansas has more than sixty-thousand boating-related accidents each year, an average of eight fatalities, and several hundred thousand dollars of property damage and insurance claims. Of these accidents, over 50% are alcohol related, and 60% of drownings in the state can be traced to alcohol.

These amendments to the BUI laws may be considered a minor, technical adjustment, but the Department of Wildlife and Parks believes they serve a vital interest of the state, and supports SB 174.

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*House Transportation  
Attachment 2  
3-19-97*



**Mothers Against Drunk Driving**

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

3/18/97

GARY HAYZLETT, CHAIRMAN  
HOUSE COMMITTEE ON TRANSPORTATION  
RM 115-S  
STATEHOUSE  
TOPEKA, KANSAS 66612

DEAR REPRESENTATIVE HAYZLETT AND TRANSPORTATION COMMITTEE MEMBERS:

KANSAS MADD WILL BE UNABLE TO HAVE A REPRESENTATIVE AVAILABLE TO TESTIFY ON BEHALF OF SENATE BILL 174 ON MARCH 19, 1997. KANSAS MADD WOULD APPRECIATE IT IF YOU WOULD ACKNOWLEDGE OUR SUPPORT FOR SENATE BILL 174. THIS BILL WILL ENHANCE THE PRESENT DUI AND BUI PENALTIES FOR A PRELIMINARY BREATH TEST REFUSAL AND ESTABLISH A .00 TOLERANCE BOATING LAW.

KANSAS MADD ASKS FOR YOUR SUPPORT FOR SENATE BILL 174.

SINCERELY

*Diane Poot*

DIANE POOT  
STATE CHAIRPERSON  
KANSAS MADD

FXED 3/18/97  
296-1154

*House Transportation  
Attachment 3  
3-19-97*

March 19, 1997

To: House Committee on Transportation  
From: R.E. "Tuck" Duncan  
RE: SB 174

I appear today in opposition to S.B. 174 on the basis that there are already substantial penalties associated with failing to take the test for which any person who operates a vehicle in Kansas is deemed to have given consent, pursuant to K.S.A. 8-1001.

Current law provides that results of a preliminary screening test shall not be admissible in any civil or criminal action except to aid the Court or Hearing Officer in determining a challenge to the validity of the arrest or the validity of the request to submit to a K.S.A. 8-1001 test. *Thus, it becomes a criminal offense to refuse to take a test the results of which can not be used in a criminal proceeding.* This is unjust.

The Kansas Wine and Spirits Wholesalers Association has worked with other legislative committees over the years to strengthen enforcement of DUI, and is actively engaged in efforts to curb impaired driving and deter underage purchasing of beverage alcohol. Provided herewith are examples of materials that have been distributed this past year. We believe this bill is inappropriate.

Thank you for your attention to and consideration to this matter.

House Transportation  
Attachment 4  
3-19-97