

Approved: February 21, 1997
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Mike Harris at 10:05 a.m. on February 11, 1997 in Room 514-S of the Capitol.

All members were present except:

Committee staff present: Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Gordon Self, Revisor of Statutes
Mary Blair, Committee Secretary (excused)

Conferees appearing before the committee: Lt. Terry Maple, Kansas Highway Patrol

Others attending:

SB 174 - Preliminary breath test; refusal; penalty

Senator Emert stated that he wished to withdraw the bill which would increase penalties for drivers who disregard railroad barricades.

Conferee Maple appeared before the committee on behalf of Patrol Superintendent, Lonnie McCollum to express support of **SB 174**. He stated that this bill amends the current law to change the penalty for refusing to submit to a preliminary breath test from a traffic infraction, to a class C misdemeanor. He explained why it was felt the bill was necessary. (Attachment 1)

Written testimony supporting **SB 174** was provided by Helen Stephens, representing Kansas Peace Officers Association and Kansas Sheriffs Association. (Attachment 2)

Following discussion Senator Bond moved that **SB 174** be moved favorably out of committee for passage. Senator Emert seconded. Motion carried.

Meeting adjourned at 10:43 a.m. The next meeting will be Wednesday, February 12, 1997.

**Kansas Highway Patrol
Summary of Testimony
1997 Senate Bill 174
before the
Senate Judiciary Committee
presented by
Lieutenant Terry L. Maple
February 11, 1997**

Good morning 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 morning.

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*Senate Judiciary
Attachment 1
2-11-97*

27-1-1012

KANSAS PEACE OFFICERS ASSOCIATION
and
KANSAS SHERIFFS ASSOCIATION

Senate Transportation Committee

February 11, 1997

Senate No. 174

Mr. Chairman and Members of the Committee:

My name is Helen Stephens, representing KPOA and KSA.

Both organizations support passage of SB 174 and believe a refusal to take the test should be more than a minor traffic infraction. We would hope that making this a class C misdemeanor would be another tool to discourage drinking and driving.

If you have any questions, I would be happy to answer them.

*Senate Judiciary
attachment 2
2-11-97*