

Approved: 3-19-99
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Senator David Corbin at 8:00 a.m. on March 17, 1999 in Room 254-E of the Capitol.

All members were present.

Committee staff present:

Raney Gilliland, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office
Lila McClafin, Committee Secretary

Conferees appearing before the committee:

Steve Williams, Secretary, Kansas Department Wildlife and Parks
Clint Riley, Kansas Department of Wildlife and Parks

Others attending: See attached list.

The hearing on **HB 2492: Lifetime furharvester license.**

Steve Williams, Secretary, Kansas Department Wildlife and Parks (KDWP), supported **HB 2492** to amend existing state law to authorize the acquisition of a lifetime furharvester license. Currently the KDWP is authorized to issue a lifetime license for hunting or fishing or a combination lifetime license for both activities. The bill would allow the KDWP to establish by rules and regulation a fee between \$240 and \$300 (Attachment 1). Mr. Williams responded to several questions.

The hearing was closed.

Chairperson Corbin proposed an amendment to **HB 2492**. Current law allows a person who is on active duty with any branch or department of the armed forces of the United States and who was a resident of this state immediately prior to entry into the armed forces to purchase a hunting license in the state. Senator Corbin's amendment would allow any member of the immediate family of such person to obtain a hunting license (Attachment 2). Senator Morris moved to adopt the amendment. The motion was seconded by Senator Vitral. The motion carried. A motion was made by Senator Morris that **HB 2492** be passed as amended. The motion was seconded by Senator Vitral. The motion carried.

Chairperson Corbin opened the discussion on **HB 2105: Concerning boating under the influence of alcohol or drugs.**

In response to concerns that were discussed when the bill was heard on March 9, 1999, Clint Riley presented a memorandum that address the "zero tolerance provision in **HB 2105**. He presented an amendment that would more appropriately adjust current BUI laws to conform with current DUI laws. The amendment would add a new subsection (g) at the end of Section 1 (Attachment 3). Mr. Riley responded to several questions.

A motion was made by Senator Biggs to adopted the proposed amendment. The motion was seconded by Senator Morris. The motion carried. A motion was then made by Senator Goodwin that **HB 2105** be passed as amended. The motion was seconded by Senator Biggs. The motion carried.

The meeting adjourned at 8:28 a.m. The next meeting will be held on March 18, 1999.

SENATE ENERGY & NATURAL RESOURCES
COMMITTEE GUEST LIST

DATE: 3-17-99

NAME	REPRESENTING
Cheri Swayne	Wildlife Parks
Steve Williams	Wildlife Parks
Clint Riley	Wildlife Parks
Charles Benjamin	KNRC / Ks Sierra Club



STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS

Office of the Secretary
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March 17, 1999

The Honorable Dave Corbin, Chairperson
Committee on Energy and Natural Resources
Senate Chamber
State Capitol Building
Topeka, Kansas 66612

Dear Senator Corbin:

Subject: House Bill No. 2492

House Bill No. 2492 amends existing state law to authorize the acquisition of a lifetime furharvester license. Currently the Kansas Department of Wildlife and Parks (KDWP) is authorized to issue a lifetime license for hunting or fishing or a combination lifetime license for both activities. The bill, as amended by House Committee, would allow the KDWP to establish, by rules and regulation, a fee for a lifetime furharvester license between a minimum of \$240 and a maximum of \$300. The provisions of the bill, as amended, further provide that the fee for a lifetime furharvester license shall \$240 from the effective date of the act, July 1, 1999, until the end of calendar year 1999.

The KDWP has determined that the provisions of HB 2492 will have a minimal fiscal impact and the Department is not opposed to the bill. The KDWP estimates that approximately 65 state residents may apply for a lifetime furharvester license. At the amount of \$240 per license authorized for calendar year 1999, revenue of approximately \$975 would be deposited to the Wildlife Fee Fund and \$14,625 to the Wildlife Conservation Fund in FY 2000. The administrative cost associated with issuing the licenses will be absorbed within amounts included in the FY 2000 Governor's Budget Report.

Senate Energy & Natural Resources

Attachment: /

Date: 3-17-99 1-1

Thank you for the opportunity to comment on the provisions of House Bill No. 2492. If you or members of the Committee on Energy and Natural Resources have any questions, please advise.

Sincerely,

A handwritten signature in black ink that reads "Steve Williams". The signature is written in a cursive style with a prominent flourish at the end.

Steve Williams, Secretary

WP\test2492

PROPOSED AMENDMENT TO SENATE BILL NO. 316

On page 6, after line 18, by inserting:

"Sec. 4. K.S.A. 1998 Supp. 32-980 is hereby amended to read as follows: 32-980. (a) The secretary shall adopt, in accordance with K.S.A. 32-805 and amendments thereto, rules and regulations prescribing:

(1) Procedures for, the form and content of and the requirements for applications for licenses, permits, stamps and other issues of the department, and duplicates thereof; and

(2) procedures for issuance of and the form and content of licenses, permits, stamps and other issues of the department, and duplicates thereof.

(b) The secretary shall provide for both resident and nonresident licenses, permits, stamps and other issues of the department, and duplicates thereof, except that:

(1) A nonresident who is on active duty with any branch or department of the armed forces of the United States while stationed within this state may purchase licenses, permits, stamps and other issues of the department, except a lifetime fishing, hunting or combination hunting and fishing license as provided in K.S.A. 32-930 and amendments thereto, and may engage in any activity authorized by such license, permit, stamp or other issue under the same conditions as a resident of this state. Such person shall carry in the person's possession when fishing or hunting such license, permit, stamp or other issue and a card or other evidence identifying such person as being on active duty in the armed forces of the United States.

(2) A person who is on active duty with any branch or department of the armed forces of the United States and who was a resident of this state immediately prior to entry into the armed forces, and any member of the immediate family of such person who is domiciled with such person, may purchase licenses, permits, stamps and other issues of the department and may engage in any activity authorized by such license, permit, stamp or other issue under the same conditions as a resident of this state.

(3) A nonresident who is a registered full time student in

residence of a public or private secondary, postsecondary or vocational school located in this state may purchase licenses, permits, stamps and other issues of the department, except a lifetime fishing, hunting or combination hunting and fishing license as provided in K.S.A. 32-930 and amendments thereto, and may engage in any activity authorized by such license, permit, stamp or other issue under the same conditions as a resident of this state. Such person shall carry in the person's possession when fishing or hunting such license, permit, stamp or other issue and a card or other evidence identifying such person as a full time student.";

By renumbering sections 4 through 6 accordingly;

On page 8, in line 25, after "32-906" by inserting ", 32-980";

In the title, in line 11, after "32-906" by inserting ", 32-980"



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MEMORANDUM

To: Senator David Corbin, Chair
Members of the Senate Committee on Energy and Natural Resources

From: Clint Riley, Department of Wildlife and Parks *CMR*

Date: March 9, 1999

Re: "Zero tolerance" provision in HB 2105

At this morning's hearing on HB 2105 before the Senate Committee on Energy and Natural Resources, concern was raised regarding new paragraph 2 in Section 1 (page 1, lines 20-22). This provision would establish "zero tolerance" for boating under the influence by persons under the legal drinking age of 21, by setting the legal alcohol concentration limit at .02. The Committee asked whether this accurately reflects the "zero tolerance" provision in the current laws for driving under the influence.

The relevant statute for driving under the influence, K.S.A. 8-1567a, is attached. The penalty for driving with an alcohol concentration of .02 but less than .08, for a person under age of 21, is suspension of the person's driving privileges for 30 days upon first conviction, and for 90 days upon second or subsequent conviction. (See subsection (f), on page 199.) Therefore, the Committee was correct in noting that the penalty for violating the "zero tolerance" provision in the driving statutes is less than the established penalty for conviction of driving under the influence.

In order for HB 2105 to more appropriately adjust current BUI laws to conform with current DUI laws, the department suggests that it be amended by adding a new subsection (g) at the end of Section 1, as follows:

(g) Subsection (e) shall not apply to or affect a person less than 21 years of age who submits to a breath or blood alcohol test requested pursuant to K.S.A. 32-1132 and amendments thereto, and produces a test result of .02 or greater, but less than .08. Such person's boating privileges upon the first occurrence shall be suspended for 30 days and upon a second or subsequent occurrence shall be suspended for 90 days.

The department intends that this amendment would parallel the established penalty for violation of the "zero tolerance" provision in the driving statutes.

cc: Mary Torrence

Senate Energy & Natural Resources

Attachment: 3

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82. License suspension is collateral consequence of DUI guilty plea; court not required to inform defendant. *City of Ottawa v. Lester*, 16 K.A.2d 244, 248, 822 P.2d 72 (1991).
83. Introduction of evidence of defendant's refusal to perform field sobriety tests not a violation of 5th Amendment. *State v. Rubik*, 16 K.A.2d 585, 586, 827 P.2d 771 (1992).
84. Horizontal gaze nystagmus field sobriety test noted as scientific; foundation requirements for admissibility must be satisfied. *State v. Witte*, 251 K. 313, 314, 836 P.2d 1110 (1992).
85. Law enforcement officer's stop of vehicle for safety reasons alone examined. *State v. Vistuba*, 251 K. 821, 840 P.2d 511 (1992).
86. Where judge imposes fine beyond minimum mandatory amount, judge must comply with 21-4607. *State v. Shuster*, 17 K.A.2d 8, 10, 829 P.2d 925 (1992).
87. What constitutes completed breath test, inadequate sample due to physical inability caused by medical condition examined. *Call v. Kansas Dept. of Revenue*, 17 K.A.2d 79, 83, 831 P.2d 970 (1992).
88. Trial court's authority to sentence following first conviction examined; suspension of driver's license not permitted. *State v. Gaschler*, 17 K.A.2d 699, 700, 847 P.2d 1319 (1992).
89. In prosecution under subsection (a)(2), whether state complied with two-hour time limitation is foundational question. *State v. Pendleton*, 18 K.A.2d 179, 849 P.2d 143 (1993).
90. Officers were immune regarding state charges stated by driver charged with DUI under state tort claims act. *Burgess v. West*, 817 F.Supp. 1520, 1521, 1522, 1528 (1993).
91. Cited in holding diversion agreements may include provision for trial on stipulated facts in felony cases where agreement breached. In re Habeas Corpus Application of Tolle, 18 K.A.2d 491, 499, 856 P.2d 944 (1993).
92. City law enforcement officer's authority to exercise powers outside city limits (22-2401a) examined; "request for assistance" construed. *State v. Rowe*, 18 K.A.2d 572, 856 P.2d 1340 (1993).
93. Whether house arrest constitutes imprisonment under 21-3405b(b)(2) examined. *State v. Scherzer*, 254 K. 926, 930, 932, 934, 937, 869 P.2d 729 (1994).
94. Whether municipal ordinances substantially conform with state statutes to be admissible in habitual violator action examined. *State v. Graham*, 19 K.A.2d 341, 342, 868 P.2d 1245 (1994).
95. Whether intoxicated passenger who refuses alcohol concentration test is subject to driver's license suspension examined. *Furthmyer v. Kansas Dept. of Revenue*, 19 K.A.2d 591, 598, 873 P.2d 1365 (1994).
96. Whether judge applied a standard stricter than minimum statutory standard regarding alcohol impairment examined. *State v. Arehart*, 19 K.A.2d 879, 880, 878 P.2d 227 (1994).
97. Whether defendant charged with second DUI in five years must request jury trial within seven days after trial notification examined. *State v. Jones*, 19 K.A.2d 982, 983, 879 P.2d 1141 (1994).
98. Whether blood test results requested by defendant's physician in vehicular homicide case are subject to physician-patient privilege examined. *State v. Mendoza*, 20 K.A.2d 541, 543, 889 P.2d 1147 (1995).
99. Noted in discussion of how far back prior termination of parental rights should be considered in applying subsequent unfitness presumption. In re J.L., 20 K.A.2d 665, 673, 891 P.2d 1125 (1995).
100. Whether uncounseled DUI diversion where defendant was not imprisoned may be used to enhance sentence in subsequent DUI conviction examined. *Paletta v. City of Topeka*, 20 K.A.2d 859, 862, 893 P.2d 280 (1995).
101. Whether subsection (f) controls over 21-4704(a) in determining penalties for third or later DUI conviction examined. *State v. Webb*, 20 K.A.2d 873, 875, 893 P.2d 255 (1995).
102. Whether felony DUI penalty provision is controlled by subsection (f) or 21-4701 et seq. examined. *State v. Binkley*, 20 K.A.2d 999, 1000, 894 P.2d 907 (1995).
103. Civil administrative sanction of driver's license suspension for DUI violation does not constitute punishment for double jeopardy purposes. *State v. Mertz*, 258 K. 745, 747, 751, 907 P.2d 847 (1995).
104. Defense counsel's failure to introduce medical evidence explaining intoxication not ineffective assistance. *U.S. v. Salama*, 893 F.Supp. 975, 976 (1995).
105. Requiring DUI defendant to disclose history of substance abuse to licensing agency not an abuse of discretion. *U.S. v. White*, 902 F.Supp. 1347, 1350 (1995).
106. Traffic DUI citation need not allege facts constituting a crime as required by complaint. *State v. Boyle*, 21 K.A.2d 944, 948, 913 P.2d 617 (1996).
107. A diversion agreement is considered a conviction when first entered into for habitual violator purposes. *State v. Knoff*, 22 K.A.2d 85, 911 P.2d 822 (1996).
108. Savings clause for technical irregularities (8-1001 (f)(4)) applies only to commercial motor vehicle operators. *State v. Bunker*, 260 K. 564, 565, 920 P.2d 405 (1996).
109. A defendant convicted of one class of misdemeanor cannot be sentenced for higher severity level offense. *State v. Masterson*, 261 K. 158, 159, 929 P.2d 127 (1996).
110. Trial court denial of motion to suppress evidence of defendant's intoxication when stopped upheld. *State v. Brown*, 22 K.A.2d 560, 561, 920 P.2d 460 (1996).
111. House arrest is permissible following the minimum 48 consecutive hours of imprisonment. *State v. Strand*, 261 K. 895, 898, 899, 933 P.2d 713 (1997).
112. DUI probable cause to arrest depends on officer's factual basis for concluding defendant intoxicated at time of arrest. *City of Dodge City v. Norton*, 262 K. 199, 936 P.2d 1356 (1997).
113. Prosecutor's failure to satisfy breath test foundation requirements resulting in mistrial remanded on prosecutorial misconduct/double jeopardy issue. *State v. Muck*, 262 K. 459, 939 P.2d 896 (1997).
114. Municipalities may not prosecute felony driving under influence of alcohol charge. *City of Junction City v. Cadoret*, 263 K. 164, 165, 946 P.2d 1356 (1997).
115. Municipal convictions may be used under special criminal history provision of 21-4711(c). *State v. Briggs*, 24 K.A.2d 621, 623, 629, 950 P.2d 273 (1997).

8-1567a. Driving under the influence of alcohol or drugs by any person less than 21 years of age; blood alcohol concentration; penalties. (a) It shall be unlawful for any person less than 21 years of age to operate or attempt to operate a vehicle in this state with a breath or blood alcohol content of .02 or greater.

(b) Whenever a law enforcement officer determines that a breath or blood alcohol test is to be required of a person less than 21 years of age

pursuant to K.S.A. 8-1567a, shall provide written notice required by law, that it is unlawful for any person to operate or attempt to operate a vehicle in this state with a breath or blood alcohol content of .02 or greater; and (2) if the person is less than 21 years of age at the time the test is administered and the test results show an alcohol concentration of .02 or greater, the person shall be suspended for at least 90 days from the date of suspension and for at least 90 days after the suspension or subsequent occurrence.

(c) Any suspension or revocation shall be in addition to any disqualification or suspension of commercial motor vehicle operator's license and amendments thereto.

(d) Whenever a breath or blood alcohol test is requested pursuant to subsection (a), the person shall be advised of amendments thereto, that if the person is less than 21 years of age, and the result of the test is .02 or greater, but less than .08, the person's certification under 21-4701 shall be signed by one of the following:

(1) (A) There exists a reasonable basis to believe the person was driving under the influence of alcohol or to believe that the person was operating a commercial motor vehicle while under the influence of alcohol, 2,128 and amendment thereto, or other drugs in the person's system; (B) the person had been previously convicted of operating a motor vehicle while under the influence of alcohol or other drugs in the person's system; (C) the person had been previously convicted of operating a motor vehicle while under the influence of alcohol or other drugs in the person's system; or (D) the person presented the person's license to the person's employer for notice required by K.S.A. 8-1567a, amendments thereto, and the person's license was required by this section; or (E) the person is less than 21 years of age at the time of the test and (E) the result of the test is .02 or greater and the person had an alcohol concentration of .02 or greater in such person's blood.

(2) With regard to those matters required by subsection (d)(1), that the person's license was used was certified by a physician or health care provider used were in accordance with the provisions of 21-4701.

pursuant to K.S.A. 8-1001 or K.S.A. 8-2,142 and amendments thereto, in addition to any other notices required by law, the law enforcement officer shall provide written and oral notice that: (1) It is unlawful for any person less than 21 years of age to operate or attempt to operate a vehicle in this state with a breath or blood alcohol content of .02 or greater; and (2) if the person is less than 21 years of age at the time of the test request and submits to and completes the test or tests and the test results show an alcohol concentration of .02 or greater, the person's driving privileges will be suspended for at least 30 days upon the first occurrence and for at least 90 days upon a second or subsequent occurrence.

(c) Any suspension and restriction of driving privileges pursuant to this section shall be in addition to any disqualification from driving a commercial motor vehicle pursuant to K.S.A. 8-2,142 and amendments thereto.

(d) Whenever a breath or blood alcohol test is requested pursuant to K.S.A. 8-1001 and amendments thereto, from a person less than 21 years of age, and results in a test result of .02 or greater, but less than .08, a law enforcement officer's certification under this section shall be prepared. The certification required by this section shall be signed by one or more officers to certify that:

(1) (A) There existed reasonable grounds to believe the person was operating a vehicle while under the influence of alcohol or drugs, or both, or to believe that the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128 and amendments thereto, while having alcohol or other drugs in such person's system; (B) the person had been placed under arrest, was in custody or had been involved in a vehicle accident or collision; (C) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001 and amendments thereto, and the oral and written notice required by this section; (D) that the person was less than 21 years of age at the time of the test request; and (E) the result of the test showed that the person had an alcohol concentration of .02 or greater in such person's blood or breath.

(2) With regard to a breath test, in addition to those matters required to be certified under subsection (d)(1), that: (A) The testing equipment used was certified by the Kansas department of health and environment; (B) the testing procedures used were in accordance with the require-

ments set out by the Kansas department of health and environment; and (C) the person who operated the testing equipment was certified by the Kansas department of health and environment to operate such equipment.

(e) If a hearing is requested as a result of a law enforcement officer's certification under this section, the scope of the hearing shall be limited to whether: (1) A law enforcement officer had reasonable grounds to believe the person was operating a vehicle while under the influence of alcohol or drugs, or both, or to believe that the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128 and amendments thereto, while having alcohol or other drugs in such person's system; (2) the person was in custody or arrested for an alcohol or drug related offense or was involved in a motor vehicle accident or collision resulting in property damage, personal injury or death; (3) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001 and amendments thereto, and the oral and written notice required by this section; (4) the testing equipment used was reliable; (5) the person who operated the testing equipment was qualified; (6) the testing procedures used were reliable; (7) the test result determined that the person had an alcohol concentration of .02 or greater in such person's blood or breath; (8) the person was operating a vehicle; and (9) the person was less than 21 years of age at the time a test was requested.

(f) If a person less than 21 years of age submits to a breath or blood alcohol test requested pursuant to K.S.A. 8-1001 or K.S.A. 8-2,142 and amendments thereto, and produces a test result of .02 or greater, but less than .08, the person's driving privileges upon the first occurrence shall be suspended for 30 days and upon a second or subsequent occurrence shall be suspended for 90 days.

(g) Except where there is a conflict between this section and K.S.A. 8-1001 and 8-1002 and amendments thereto, the provisions of K.S.A. 8-1001 and 8-1002 and amendments thereto, shall be applicable to proceedings under this section.

(h) Any determination under this section that a person less than 21 years of age had a test result of .02 or greater, but less than .08, and any resulting administrative action upon the person's driving privileges, upon the first occurrence of such test result and administrative action, shall not be considered by any insurance company in de-

termining the rate charged for any automobile liability insurance policy or whether to cancel any such policy under the provisions of subsection (4)(a) of K.S.A. 40-277 and amendments thereto.

(i) The provisions of this section shall take effect on and after January 1, 1997.

History: L. 1996, ch. 216, § 1; July 1.

Attorney General's Opinions:

Driving under influence of alcohol or drugs by persons under 21; proceedings for determining violation; filing abstracts of court records; penalties. 97-69.

8-1568. Fleeing or attempting to elude a police officer; penalties. (a) Any driver of a motor vehicle who willfully fails or refuses to bring such driver's vehicle to a stop, or who otherwise flees or attempts to elude a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, shall be guilty as provided by subsection (c)(1), (2) or (3). The signal given by the police officer may be by hand, voice, emergency light or siren. The officer giving such signal shall be in uniform, prominently displaying such officer's badge of office, and the officer's vehicle or bicycle shall be appropriately marked showing it to be an official police vehicle or police bicycle.

(b) Any driver who violates the provisions of subsection (a) and who: (1) Commits any of the following during a police pursuit: (A) Fails to stop for a police road block; (B) drives around tire deflating devices placed by a police officer; (C) engages in reckless driving as defined by K.S.A. 8-1566 and amendments thereto; (D) is involved in any motor vehicle accident or intentionally causes damage to property; or (E) commits five or more moving violations; or

(2) is attempting to elude capture for the commission of any felony, shall be guilty as provided in subsection (c)(4).

(c) (1) Every person convicted of violating subsection (a), upon a first conviction, shall be guilty of a class B nonperson misdemeanor.

(2) Every person convicted of violating subsection (a), upon a second conviction of such subsection, shall be guilty of a class A nonperson misdemeanor.

(3) Every person convicted of violating subsection (a), upon a third or subsequent conviction of such subsection, shall be guilty of a severity level 9, person felony.

(4) Every person convicted of violating subsection (b) shall be guilty of a severity level 9, person felony.

(d) For the purpose of this section "conviction" means a final conviction without regard whether sentence was suspended or probation granted after such conviction. Forfeiture of bail, bond or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction.

(e) The division of vehicles of the department of revenue shall promote public awareness of the provisions of this section when persons apply for or renew such person's driver's license.

History: L. 1974, ch. 33, § 8-1568; L. 1981, ch. 42, § 2; L. 1992, ch. 239, § 29; L. 1993, ch. 291, § 4; L. 1994, ch. 291, § 3; L. 1996, ch. 180, § 2; L. 1998, ch. 145, § 1; July 1.

CASE ANNOTATIONS

8. Cited; whether house arrest constitutes imprisonment under 21-3405b(b)(2) examined. *State v. Scherzer*, 254 K. 926, 930, 869 P.2d 729 (1994).

8-1578a. Riding on vehicle prohibited, when; exceptions. (a) It shall be unlawful for any person under the age of 14 years to ride on any vehicle or upon any portion thereof not designed or intended for use of passengers when the vehicle is in motion.

(b) It shall be unlawful for the operator of any vehicle to allow any person under the age of 14 years to ride on any vehicle or upon any portion thereof not designed or intended for the use of passengers when the vehicle is in motion.

(c) This section shall not apply to:

(1) An employee under the age of 14 years engaged in the necessary discharge of the employee's duty within truck bodies in space intended for merchandise or cargo; or

(2) when the vehicle is being operated in parades, caravans or exhibitions which are officially authorized or otherwise permitted by law.

(d) The provisions of subsections (a) and (b) shall apply only when a vehicle is being operated within the corporate limits of a city or on the state highway system.

History: L. 1992, ch. 317, § 5; July 1.

8-1590. Riding on bicycles or mopeds; riding on roadways and bicycle paths. (a) Every person operating a bicycle or a moped upon a roadway at less than the normal speed of traffic at the time and place and under the conditions

then existing shall be guilty of a severity level 9, person felony if the roadway as provided in subsection (a) is the following situation: (1) passing another bicycle in the same direction; (2) at an intersection or intersection (3) reasonably necessary, including, but not limited to, subjects, parked or moving vehicles, animals, such as bicycles, lanes that make it necessary to use the right-hand edge of the roadway.

(b) Any person operating a vehicle upon a one-way highway with multiple traffic lanes may ride on the roadway as provided in subsection (a).

(c) Persons riding a bicycle shall not ride on the roadway or paths or parts of the roadway for the exclusive use of bicycle.

(d) Wherever a bicycle has been provided adjacent to a roadway, such as a bicycle lane, shall use such facility.

(e) For purposes of this section, "width lane" means the width of the bicycle lane and a vehicle shall be within the lane.

History: L. 1992, ch. 188, § 7; July 1.

8-1595.

Attorney General's Opinions: Application of motor vehicle law (ATV's); definitions; re

8-1598. Operation of motor vehicle; equipment requirements.

(a) No person shall operate or ride upon a motor vehicle, unless wearing a seat belt with minimum girth, on a state or national highway pursuant to the national traffic and motor vehicle safety act of 1966, as amended, and motorcyclists and

(b) No person shall operate a motor vehicle which shall be equipped with a windshield, proof and impact resistant windshield, a minimum height of 48 inches at the center of the