

MINUTES OF THE SENATE TRANSPORTATION & TOURISM COMMITTEE.

The meeting was called to order by Chairperson Senator Ben Vidricksen at 9:05 a.m. on January 27, 1999 in Room 254-E of the Capitol.

All members were present except:

Committee staff present: Hank Avila, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
Marian F. Holeman, Committee Secretary

Conferees appearing before the committee: Sgt. John Eichkorn, KHP
Dean Carlson, Sec'y KDOT
Teresa L. Sittenauer, KS Peace Officers Assn.
Lesley Huston, AAA
William (Bill) Sneed, State Farm Ins.
Steve Dickerson, Pres. KS Trial Lawyers Assn.
Kenneth R. McNeill, ABATE of KS, Inc.
Gene Johnson, KS Community Alcohol Safety
Jim Keating, Chair, KS Safe Kids Coalition

Others attending: See attached list

Introduction of bills

Committee requested introduction of the Transportation 2000 bill. Senator Goodwin moved to introduce the bill. Senator Salmans seconded the motion. Motion carried. Chairman Vidricksen provided members with a schedule of tentative noon meeting dates and a list of the counties of presenters (Attachment 1) during February for joint meetings in Room 313-S with the House Transportation Committee for hearings on the transportation bills. It will also be necessary to have some of our regular meetings in order to deal with other matters before the committee.

SB-50: Safety belt law, violations

Staff provided members information from the National Highway Traffic Safety Administration on "Summary of Vehicle Occupant Protection Laws" (Attachment 2). Written testimony only in support of **SB 50** was submitted by Dee Meyer, State Chairwoman of Mothers Against Drunk Drivers (MADD) (Attachment 3) and Sally Finney, M. Ed, Executive Director, Kansas Public Health Assn., Inc. (Attachment 4).

Sgt. John Eichkorn, Kansas Highway Patrol, appeared on behalf of Supt. Lonnie McCollum to encourage passage of this primary seat belt law (Attachment 5) Secretary Dean Carlson, spoke to the committee on behalf of the Department of Transportation and advised that in addition to the obvious safety factors passage of this bill could possibly make Kansas eligible to receive incentive grant funds in the highway portion of TEA 21 (Attachment 6). Teresa L Sittenauer, on behalf of the Kansas Peace Officers Assn., affirmed points stress by the two prior conferees and echoed her organization's support for a primary seat belt law (Attachment 7).

Lesley Huston, AAA Kansas and AAA Missouri explained AAA's backing of **SB-50** (Attachment 8). Bill Sneed, State Farm Insurance Companies, related his long experience with seat belt legislation and how he has seen the positive benefits resulting therefrom. He sees this as a further step toward saving lives as well as financial losses (Attachment 9).

Steve Dickerson, President, Kansas Trial Lawyers Assn., advised that KTLA has no position on any sections of the bill other than Section 2(c) which radically changes prevailing law by sanctioning admissibility of evidence of nonuse of a safety belt in personal injury and wrongful death actions. (Attachment 10). They request this Section be deleted from the bill.

CONTINUATION SHEET

MINUTES OF THE SENATE TRANSPORTATION & TOURISM COMMITTEE, Room 254-E
Statehouse, at 9:05 a.m. on January 27, 1999.

Kenneth R. McNeill, ABATE of Kansas, Inc., addressed the issue of small sized persons for who seat belts can be a cause of more injury or death rather than a life saving mechanism. ABATE supports the secondary offense status of present law (Attachment 11).

Gene Johnson, Legislative Liaison, Kansas Community Alcohol Safety Action Project Coordinators Association, also addressed problems associated with Section 2(c) and requested the committee not change this particular language in the present statute (Attachment 12).

Jim Keating, Chair, Public Policy Committee, Kansas SAFE KIDS Coalition, reported data and reasons for his organization's support for **SB-50** (Attachment 13). They also agree with expressed concerns regarding Section 2(c).

Members questioned conferees regarding law enforcement's methods for determining whether or not someone is wearing a seat belt. Members learned that the driver's responsibility for use of seat belts by other passengers in the car is not changed by this law. Also, it deals only with front seat usage. The general conferee consensus was that they want the primary seat belt bill and would not lose it all because of Section 2(c). The statistics provided are observational statistics gathered following the federal methodology for obtaining such observation data..

The meeting adjourned at 10:10 a.m.

The next meeting is scheduled for Thursday, January 28, 1999.

**SENATE TRANSPORTATION & TOURISM COMMITTEE
GUEST LIST**

DATE: JANUARY 27, 1999

| NAME | REPRESENTING |
|------------------------|-------------------------------|
| KEN McNEILL | ABATE OF KS INC. |
| JOHN EICHKOW | KHP |
| Kathie Thornburgh | KDOT |
| Bill Watts | KDOT |
| Rick Scheibe | KDOR Vehicles |
| Alan Anderson | KDOR Vehicles |
| Lynn Stennett | CTF |
| Ron Smith | KS Bus Assoc |
| Maggie Keating | Kansas Insurance Department |
| Tom Whitaker | KS MOTOR CARRIERS ASSN |
| Dene Johnson | KS A.S.A.P. Assoc. |
| Sally Finney | KS. Public Health Association |
| Pat Lehman | KS Fire Service Alliance |
| Julie Sergeant | KS Dept. Health & Environ. |
| Jim Keating | KANS. SAFE KIOS COALITION |
| Dee Knapton | KTLA |
| Madeline Smith | KMHA |
| Virginia Starr | Federico Consulting |
| Norman Mann | ABATE of KS Inc. |

SENATE TRANSPORTATION & TOURISM COMMITTEE

GUEST LIST

DATE: JANUARY 27, 1999

| NAME | REPRESENTING |
|------------------|--------------------|
| Bill Sneed | State Farm Ins Cos |
| Nevsa Britenauer | KPSA |
| Steve Dickerson | KTIA |
| Wesley HUSTON | AAA OF KANSAS |
| Nancy Bogina | KDOT |
| E. Dean Carlson | Sec. - KDOT |
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BEN E. VIDRICKSEN
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SALINE, OTTAWA
PART OF DICKINSON COUNTIES
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SALINA, KANSAS 67401
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TOPEKA
SENATE CHAMBER

Assistant Majority Leader

COMMITTEE ASSIGNMENTS
CHAIRMAN: TRANSPORTATION AND UTILITIES
VICE CHAIRMAN: JOINT COMMITTEE ON STATE
BUILDING CONSTRUCTION
CONFIRMATIONS
KANSAS TURNPIKE AUTHORITY
MEMBER: COMMERCE
FEDERAL AND STATE AFFAIRS
INTERSTATE COOPERATION
ORGANIZATION, CALENDAR AND RULES
JOINT COMMISSION ON ARTS
AND CULTURAL RESOURCES
COUNCIL OF STATE GOVERNMENTS
GOVERNOR'S COMMISSION ON TRAVEL
AND TOURISM
NATIONAL CONFERENCE OF STATE
LEGISLATURES
LEGISLATIVE CONSULTANT TO KANSAS
FILM COMMISSION

TO: TRANSPORTATION & TOURISM COMMITTEE

DATE: January 27, 1999

TENTATIVE DATES FOR LOCAL TESTIMONY BY T-2000 MEETING

FEBRUARY (Assuming testimony past 2/23)

| | |
|----|-----------------------|
| 2 | Pittsburg |
| 3 | Garden City |
| 4 | Ottawa - <i>Paris</i> |
| 9 | Great Bend |
| 10 | Wichita |
| 11 | Colby |
| 16 | Kansas City |
| 17 | Salina |
| 18 | Marysville |
| 24 | Ark City |
| 25 | Topeka |

~~FEBRUARY~~ (Assuming testimony ends 2/23)

The above meetings will be held @ 12:00 noon to 1:15 p.m.
on each of the above dates.

Will attempt to cancel the 9:00 a.m. meetings as often as possible.

SN. TRANSPORTATION & TOURISM COMM.
January 27, 1999
ATTACHMENT #1



800 S.W. JACKSON STREET, #1408 ■ TOPEKA, KANSAS 66612-2214
785-235-1188 ■ FAX 785-235-2544 ■ LIFELINES@CJNETWORKS.COM

DATE:

COUNTIES OF PRESENTERS:

- Tuesday, February 2:** Allen, Bourbon, Cherokee, Crawford, Linn, Montgomery, Neosho, Wilson, Woodson
- Wednesday, February 3:** Clark, Comanche, Finney, Ford, Grant, Gray, Greeley, Hamilton, Haskell, Hodgeman, Kearny, Lane, Meade, Morton, Ness, Scott, Seward, Stanton, Stevens, Wichita
- Thursday, February 4:** Anderson, Coffey, Douglas, Franklin, Lyon, Osage
- Tuesday, February 9:** Barton, Edwards, Kiowa, Osborne, Pawnee, Pratt, Rice, Rush, Russell, Stafford
- Wednesday, February 10:** Butler, Harvey, Kingman, Sedgwick, (Additional: City of Wichita)
- Thursday, February 11:** Cheyenne, Decatur, Ellis, Gove, Graham, Logan, Norton, Phillips, Rawlins, Rooks, Sheridan, Sherman, Thomas, Trego, Wallace
- Tuesday, February 16:** Atchison, Leavenworth, Wyandotte (Additional: Kansas City, KS)
- Wednesday, February 17:** Cloud, Dickinson, Ellsworth, Lincoln, Marion, McPherson, Mitchell, Ottawa, Reno, Saline
- Thursday, February 18:** Brown, Clay, Doniphan, Geary, Jewell, Marshall, Nemaha, Pottawatomie, Republic, Riley, Smith, Washington
- Tuesday, February 23:** Johnson, Miami
- Wednesday, February 24:** Barber, Chatauqua, Cowley, Elk, Greenwood, Harper, Labette, Sumner
- Thursday, February 25:** Chase, Jackson, Jefferson, Morris, Shawnee, Wabaunsee
(Additional: City of Topeka)

SUMMARY OF VEHICLE OCCUPANT PROTECTION LAWS

***CURRENT AS OF
JANUARY 1, 1999***



**U.S. Department of Transportation
National Highway Traffic Safety Administration**

SUMMARY TABLE OF STATE VEHICLE OCCUPANT PROTECTION LAWS

| S T A T E | SAFETY BELT USE LAWS ¹ | | | | CHILD RESTRAINT USE LAWS ¹ | | | | MOTORCYCLE HELMET USE LAWS ¹ | | |
|-----------------------|-----------------------------------|-------------------------|-------------------|--------|---------------------------------------|--------------|-------------------|--------|---|-------------------|-----------------|
| | Enforcement | Passengers | Maximum Fine (\$) | Points | Age | Weight (lbs) | Maximum Fine (\$) | Points | Age | Maximum Fine (\$) | Points |
| AL | Secondary | Front Seat | 25 | | <4 | | 10 | | All | 100 ⁴ | 2 |
| AK | Secondary | All | 15 | | <4 | | 50 | 2 | <18 | 300 | 2 |
| AZ | Secondary | Front Seat | 10 | | <5 | | 50 | | <18 | 250 | |
| AR | Secondary | Front Seat | 25 | 3 | <5 | <40 | 100 | | <21 | 50 | 3 |
| CA | Primary | All | 20 ⁴ | | <4 | <40 | 100 ⁴ | | All | 100 ⁴ | |
| CO | Secondary | Front Seat | 15 | | <4 | <40 | 50 | | -- ⁵ | | |
| CT | Primary | Front Seat | 15 | | <4 | <40 | 100 ⁴ | | <18 | 90 | |
| DE | Secondary | Front Seat | 20 | | <4 | | 28.75 | | <19 | 115 ⁴ | 2 |
| DC | Primary | All | 50 | 2 | <3 | | 55 | | All | 25 | 2 |
| FL | Secondary | Front Seat ⁴ | 30 | | ≤5 | | 60 | 3 | All | 30 | |
| GA | Primary | Front Seat | 15 | | ≤4 | | 50 | | All | 1,000 | |
| HI | Primary | Front Seat | 20 | | <3 | | 100 ⁴ | | <18 | 1,000 | |
| ID | Secondary | Front Seat | 5 | | <4 | | 100 | | <18 | 100 | |
| IL | Secondary | Front Seat | 25 | | <4 | | 25 ⁴ | | -- ⁵ | | |
| IN | Primary | Front Seat | 25 | | <4 | | 25 | 4 | <18 | 500 | 4 |
| IA | Primary | Front Seat | 10 | | <3 | | 10 | | -- ⁵ | | |
| KS | Secondary | Front Seat | 10 | | <4 | | 20 | | <18 | 10 | |
| KY | Secondary | All | 25 | | -- ⁷ | | 50 | | (<21) ⁴ | 500 | -- ⁹ |
| LA | Primary | Front Seat | 25 ⁴ | | <5 | | 50 | | All | 50 | |
| ME | Secondary | All | 50 | | <4 | | 500 | | -- ¹⁰ | | |
| MD | Primary | Front | 25 | | <4 | ≤40 | 25 | | All | 500 | |

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VEHICLE OCCUPANT PROTECTION II

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SUMMARY TABLE OF STATE VEHICLE OCCUPANT PROTECTION LAWS
(continued)

| S T A T E | SAFETY BELT USE LAWS ¹ | | | | CHILD RESTRAINT USE LAWS ² | | | | MOTORCYCLE HELMET USE LAWS ³ | | |
|-----------------------|-----------------------------------|---------------|-------------------|--------|---------------------------------------|--------------|-------------------|-------------------|---|-------------------|--------|
| | Enforcement | Passengers | Maximum Fine (\$) | Points | Age | Weight (lbs) | Maximum Fine (\$) | Points | Age | Maximum Fine (\$) | Points |
| MA | Secondary | All | 25 | | ≤5 | | 25 | | All | 35 ⁴ | |
| MI | Secondary | Front Seat | 25 | | <4 | | 10 | | All | 100 | |
| MN | Secondary | Front Seat | 25 | | <4 | | 50 | | <18 | 200 | |
| MS | Secondary | Front Seat | 25 | | <4 | | 25 | | All | 100 ⁴ | |
| MO | Secondary | Front Seat | 10 | | <4 | | 25 | | All | 25 | |
| MT | Secondary | All | 20 | | <2 | | 100 | | <18 | 5 | |
| NE | Secondary | Front Seat | 25 | | <4 | | 25 | ... ¹¹ | All | 50 | |
| NV | Secondary | All | 25 | | <5 | <40 | 100 | | All | 1,000 | 2 |
| NH | Primary | <18 Years Old | 25 ⁴ | | <4 | | 25 ⁴ | | <18 | 1,000 | |
| NJ | Secondary | Front Seat | 20 | | <5 | | 25 | | All | 25 | |
| NM | Primary | Front Seat | 25 | | <1 | | 25 | | <18 | 300 | |
| NY | Primary | Front Seat | 50 | 3 | <4 | | 100 | 3 | All | 100 | 2 |
| NC | Primary | Front Seat | 25 | | <4 | | 25 | | All | 25 | |
| ND | Secondary | Front Seat | 20 | | <3 | | 20 | | <18 | 500 | 2 |
| OH | Secondary | Front Seat | 25 | | <4 | <40 | 100 ⁴ | ... ¹² | <18 | 100 ⁴ | |
| OK | Primary | Front Seat | 10 | | <4 | <60 | 10 | | <18 | 500 | |
| OR | Primary | All | 75 | | <4 | <40 | 75 | | All | 75 | |
| PA | Secondary | Front Seat | 10 | | <4 | | 25 | | All | 25 | |
| PR | Primary | Front Seat | 10 | | <4 | | 10 | | All | 10 | |
| RI | Secondary | All | 30 | | <4 | | 150 | | <21 ¹³ | 35 | |
| SC | Secondary | All | 10 | | <4 | | 25 | | <21 | 100 | |
| SD | Secondary | Front Seat | 20 | | <5 | | 20 | | <18 | 200 | |

SUMMARY TABLE OF STATE VEHICLE OCCUPANT PROTECTION LAWS
(continued)

| S T A T E | SAFETY BELT USE LAWS ¹ | | | | CHILD RESTRAINT USE LAWS ² | | | | MOTORCYCLE HELMET USE LAWS ³ | | |
|-----------------------|-----------------------------------|------------|--------------------|--------|---------------------------------------|--------------|-------------------|--------|---|-------------------|--------|
| | Enforcement | Passengers | Maximum Fine (\$) | Points | Age | Weight (lbs) | Maximum Fine (\$) | Points | Age | Maximum Fine (\$) | Points |
| TN | Secondary | Front Seat | 50 | | <4 | | 50 | | All | 50 | |
| TX | Primary | Front Seat | 50 | | <2 | | 50 | | (<21) ⁴ | 50 | |
| UT | Secondary | Front Seat | 10 | | <2 | | 75 | | <18 | 750 | |
| VT | Secondary | All | 10 | | <5 | | 25 | | All | 175 | 2 |
| VA | Secondary | Front Seat | 25 | | <4 | | 50 | 3 | All | 200 | 3 |
| VI | Primary | Front Seat | 100 ⁴ | | <5 | | 100 ⁴ | | All | 200 | |
| WA | Secondary | All | 35 | | <3 | | 35 | | All | 35 | |
| WV | Secondary | Front Seat | 25 | | <3 | | 20 | | All | 100 | |
| WI | Secondary | Front Seat | 10 | | <4 | | 75 | | <18 | 200 | |
| WY | Secondary | Front Seat | None ¹⁵ | | ≤4 | ≤40 | 50 ⁴ | | <18 | 200 ⁴ | |
| UVC* | Primary | All | 200 ⁴ | | <4 | | 200 ⁴ | | All | 200 ⁴ | |

*Uniform Vehicle Code

1. These columns report information about mandatory safety usage for motor vehicle operators and passengers who are ≥ 16 years old.
2. These columns report information only about the required use of child passenger protection devices. Some States provided for a weight criteria for child restraint device use as an alternative to age.
3. The information in these columns applies only to motorcycle operators.
4. This is the maximum fine for a first conviction.
5. This State does not require motorcycle operators to wear a head protection device.
6. However, all passengers, who are < 16 years old, must wear a safety belt.
7. The requirement to use a child safety device applies if the child is ≤40 inches tall.

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SUMMARY TABLE OF STATE VEHICLE OCCUPANT PROTECTION LAWS
(continued)

8. The following persons are required to wear State approved protective headgear when operating or riding as a passenger on a motorcycle: (1) Operator or passengers who are <21 years old (including passengers <21 years old who are riding in sidecar attachments); (2) any operator who possesses a motorcycle instruction permit; (3) any operator who has possessed a motorcycle operators permit for < 1 year; and, (4) any operator ≥21 years old who does not have health insurance. An operator, who is ≥21 years old, may obtain an exemption from wearing protective headgear if they have a health insurance policy.
9. An offender's license is suspended for 90 days. This licensing action appears to be mandatory.
10. The requirement to wear protective headgear applies only to operators either who are diving a motorcycle on a learner's permit or who have within one year successfully completed a motorcycle driving test.
11. It may be possible to assess one point against a person's driving record.
12. It may be possible to assess two points against a person's driving record.
13. This age limit applies only to motorcycle operators. Motorcycle passengers must wear protective head gear regardless of their age.
14. A person, who is ≥21 years old, may apply for an exemption from using a safety helmet provided they either (1) have successfully completed a motorcycle operator training and safety course or (2) are covered by a health insurance plan that provides the person with at least \$10,000 in medical benefits which will cover the costs of any injury sustained while operating or riding on a motorcycle.
15. If a person is cited for a violation of the traffic laws, they may have their fine reduced by \$5 if they were wearing a safety belt.

JURISDICTION:
General Reference:

KANSAS
Kansas Statutes Annotated

Required Use of Safety Belts¹:

Requirements:

When a passenger car² is in operation, each front seat passenger must be secured in a safety belt. §8-2503(a)

Secondary Enforcement. A vehicle shall not stop for a violation of this requirement in the absence of another violation of the law. A citation for a violation of this requirement cannot be issued unless a citation is issued for the violation which caused the stop. §8-2503(e)

Sanctions for Failure to Use or Require the Use of Safety Belts:

A fine of \$10. §8-2504(a)(2) A court is not to report a violation of this requirement to the department of revenue. §8-2504(b)

Effect on Civil Liability:

Evidence of failure to use a safety belt shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages. §8-2504(c)

Required Use of Child Safety Restraint Systems:

Requirements:

I. A driver of a passenger car² shall properly restrain a child < 4 years old in a Federally approved child safety restraining system. §8-1344(a) & (b)

II. A driver of a passenger car² shall properly restrain a child > 4 but < 14 years old in a in a safety belt.³ §8-1344(b)

Sanctions for Failure to Require the Use of Child Restraint Systems:

A fine of \$20. Note: A violation of this requirement is not a moving violation for licensing sanctions purposes. §8-1345(a)

Effect on Civil Liability:

Evidence of failure to secure a child as required shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages. §8-1345(d) The law has been interpreted to include "misuse" as well as "non-use." *Watkins v. Hartssock*, 783 P.2d 1293 (Kan. 1989) In addition, failure to employ a child passenger restraint system shall not constitute negligence per se. §8-1346

¹**Exemptions.** The requirement to use a safety belt does not apply in the following circumstances: (1) To passengers who are unable to wear a safety belt for medical reasons; (2) to carriers of U.S. mail when on actual duty delivering and collecting the mail; (3) to persons who are in the process of delivering newspapers; and, (4) to persons who are required to be secured in a child passenger restraint system. §8-2503(b)

²A "passenger car" is defined as a motor vehicle (including vans) designed to carry ≤ 10 persons. However, such definition does not include a motorcycle, a trailer or a vehicle constructed either on a truck chassis with a gross vehicle weight of > 12,000 lbs. or a farm truck with a gross weight > 16,000 lbs. §§8-1343a & 8-2502 In addition, for safety belt use law only, the term "passenger car" excludes a vehicle constructed with special features for occasional off-road operation. §8-2502 For both safety belt and child protection laws, "passenger car" means those vehicles that comply with Federal Motor Vehicle Safety Standard No. 208 (49 CFR 571.208). §§8-1344(b) & 8-2503(a) Note: This Federal standard applies to passenger motor vehicles manufactured after January 1, 1973.

³This requirement does not apply if all of the available seating positions with safety belts are occupied. §8-1344(b)

KANSAS

Required Use of Motorcycle Protective Headgear:

Requirements:

No person < 18 years old shall operate or ride upon a motorcycle or motorized bicycle unless they are wearing a helmet that satisfies Federal standards. §8-1598(a) This requirement does not apply if the person is riding in an enclosed cab, golf cart or industrial (cargo-type) vehicle having 3 wheels (i.e., a truckster). §8-1598(c)

Sanctions for Failure to Use:

Traffic Infraction: A fine of \$10. §§8-2116(a) & 8-2118(c)

Required Use of Motorcycle Eye Protection Device⁴:

Requirements:

No person shall operate a motorcycle unless they are wearing an eye-protection device (i.e., protective glasses, goggles or transparent shields which are shatter proof and impact resistant). This requirement does not apply if the motorcycle is equipped with a windscreen. §8-1598(b)

Sanctions for Failure to Use:

Traffic Infraction: A fine of \$10. §§8-2116(a) & 8-2118(c)

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

I. A person < 14 years old is prohibited from riding upon any portion of a vehicle not designed to intended for passenger use. §8-1578a(a)
II. A driver is not to allow a person < 14 years old to ride upon any portion of a vehicle not designed to intended for passenger use. §8-1578a(b)

Note: The above requirements only apply when the vehicle is being operated within the corporate limits of a city or on the State highway system. §8-1578a(d)

Sanctions for a Violation:

Traffic Infraction: A fine of \$20. §§8-2116(a) & 8-2118(c)

Exemptions:

This requirement does not apply (1) to an employee < 14 years old who is engaged in the necessary discharge of an employer's duties within a truck body which is intend for merchandise or cargo or (2) vehicles being operated in parades, caravans or exhibitions. §8-1578a(c)

⁴This requirement does not apply to persons who are riding within an enclosed cab, a golf cart or any industrial (e.g., cargo-type) vehicle which has three wheels and which is commonly known as a truckster. §8-1598(c)

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*Susanna***INDIANA TRAFFIC FACTS**

SUSANNA C. TRAN

JAN 25 1999

1997 INDIANA CRASH PROFILE

| TRAFFIC FATALITIES | Passenger Car Fatalities | 16-24 Year Olds Killed | Passenger Car Occupants Killed not Restrained |
|--------------------|--------------------------|------------------------|---|
| 935 | 548 | 250 | 60% |

BENEFITS OF THE NEW PRIMARY SAFETY BELT LAW

(Based on front seat occupants of passenger cars)

| 1997 Secondary Law Usage Rate | 1998 Primary Law Usage Rate | Increase Due to Primary Safety Belt Law |
|-------------------------------|-----------------------------|---|
| 59.5% | 68.6% | 9.1% (528,000 New Users) |

Usage rate survey conducted by Purdue University in November of each year.

SAVINGS FROM PRIMARY SAFETY BELT USE

| | Fatalities Prevented | Injuries Prevented | Total Costs Saved* |
|--|----------------------|--------------------|--------------------|
| Results of Indiana Primary Law (Based on 9.1% increase) | 30 | 817 | \$48 million |
| With 5 Percentage Point Increase (73.6%) | 17 | 449 | \$27 million |
| With 10 Percentage Point Increase (78.6%) | 35 | 898 | \$54 million |
| At 85% Use Rate | 59 | 1,472 | \$90 million |
| At 90% Use Rate | 79 | 1,921 | \$118 million |

* Based on 1996 economic adjustments

TRAFFIC VERSUS CRIME

| | | | |
|--------------|----------------|-----------------------|--------------------------|
| 1996 Traffic | 984 Fatalities | 91,744 Injuries | 410,306 Damaged Vehicles |
| 1996 Crime** | 420 Homicides | 31,366 Violent Crimes | 231,376 Property Crimes |

**1996 Uniform Crime Report



NHTSA
Dedicated. Saving Lives.

**Region V**

National Highway Traffic Safety Administration
18000 Governor's Drive, Suite 201
Olympia Field, IL 62451
708-503-8882 fax 708-503-8881

2-8



Mothers Against Drunk Driving

3601 SW 29th Street • Topeka, KS 66614 • (785) 271-7525 • 1 (800) 228-6233

KANSAS STATE OFFICE

1/24/99

Senator Ben Vidrickson, Chairman
Senate Committee on Transportation
Rm. 143 N
State Capitol

Chairman Vidrickson and Committee Members:

Mr. Chairman and members of the Senate Transportation Committee, Kansas MADD appreciates the opportunity to submit written testimony regarding Senate Bill 50.

MADD's mission is to stop drunk driving and to support victims of this violent crime. Kansas MADD strongly supports the adoption of a primary seat belt law in Kansas as a means of improving highway safety and as a primary defensive measure against drunk driving crashes. However Kansas MADD cannot support the proposed amendments set forth in Section 2 (c) of Senate Bill 50. These amendments would change current law by limiting the right of drunk driving victims to recover damages.

MADD supports existing Kansas law that prohibits the admission of evidence of seat belt nonusage in a civil action for a victim's personal injury. Section 2 (c) of Senate Bill 50 proposes to change this longstanding law which protects victims' rights. Kansas MADD recognizes the need for a primary seat belt law, but sometimes even responsible individuals forget to buckle up. Or they unbuckle to address a need. Further, children sometimes unbuckle unbeknownst to the driver. In many crashes it is impossible to determine seat belt usage and seat belt failure. Should innocent people be made to pay for the actions of a driver who decides to drink and drive? In its current form, Section 2 (c) would diminish the negligence of the drinking driver and jeopardize recourse for their victims.

During 1997 (1998 statistics unavailable), Kansas recorded a total of 3,205 alcohol-related crashes involving 6,768 persons. Eighty-six persons were killed and 2,508 were injured. Approximately one of every three persons killed in an alcohol-related crash is not the drinking driver. KDOT-Bureau Traffic Safety

SN. TRANSPORTATION & TOURISM COMM.

January 27, 1999

ATTACHMENT #3

3-1

It is MADD's policy to protect and support victims of drunk driving crashes and guard against passage of laws which would diminish or restrict the rights of victims of drunk drivers to be compensated. Due to the fact that this bill could limit, or eliminate compensation for victims of drunk driving crashes, Kansas MADD must oppose the proposed amendments in Section 2 (c). Kansas MADD asks that committee members remove Section 2 (c) from Senate Bill 50 and protect the rights of the victims of drunk drivers to full compensation for this violent crime.

Kansas MADD appreciates your support.

Sincerely, ^a



Dee Meyer
State Chairwoman
Kansas MADD

**KANSAS
PUBLIC
HEALTH
ASSOCIATION, INC.**

KANSAS PUBLIC HEALTH ASSOCIATION, INC.

AFFILIATED WITH THE AMERICAN PUBLIC HEALTH ASSOCIATION

215 S.E. 8TH AVENUE

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Testimony on Senate Bill 50
Submitted on January 27, 1999
by Sally Finney, M.Ed, Executive Director

The Kansas Public Health Association supports passage of Senate Bill 50. The role of seat belts in saving human lives remains a proven fact. Unfortunately, Kansas ranks 42nd among states for seat belt use rates, according to the National Highway Traffic Safety Association. The 1997 Behavioral Risk Factor Surveillance Survey for Kansas, conducted by the Kansas Department of Health and Environment, shows that only 54% of Kansas adults use seat belts. This is consistent with the experience of other states that only allow for secondary enforcement of seat belt usage. These states average only 63% usage, in contrast to states that have primary enforcement and average 78% use.

With the advent of air bags, the need for motor vehicle passengers to use seat belts has become event more important. According to the Air Bag Safety Campaign of the National Safety Council, children who have been killed by air bags were killed because they were not wearing their seat belts or were improperly restrained.

Failure to use seat belts costs human lives. It also costs in health care and insurance in dollars from public and private sources. Individuals who fail to use seat belts are less likely to be uninsured than those who habitually wear seat belts.

We believe your vote in favor of SB 50 will result in saved lives and tax dollars, and we ask your support for this legislation.

**Kansas Highway Patrol
Summary of Testimony
1999 Senate Bill 50
Before the
Senate Transportation and Tourism Committee
Presented by
Sergeant John A. Eichkorn
January 27, 1999**

Good morning Mr. Chairman and members of the committee. My name is John Eichkorn and I appear before you on behalf of Patrol Superintendent, Lonnie McCollum, to comment on Senate Bill 50.

SB 50 seeks to allow law enforcement officers the authority to stop motorists and take appropriate enforcement action when a safety belt violation is observed. Under current law, police officers in Kansas can only take enforcement action on safety belt violations if the officer first observes a separate violation such as an improper lane change or speeding. The secondary enforcement restriction in current law significantly hinders the ability of law enforcement to effectively encourage the widespread use of safety belts through proactive enforcement.

During 1997, 409 occupants of passenger vehicles (cars, light trucks and vans) were killed in motor vehicle traffic crashes on Kansas's roadways. Tragically, 257 of these people were not wearing a safety belt at the time of their crash and it was unknown whether another 43 of these fatalities were wearing one or not. Out of these fatal crashes, potentially 300 people may have had a second chance at life had they buckled up.

Statistics such as these should not come as a surprise given that research has found safety belts, when used, reduce the risk of fatal injury to front-seat occupants of passenger cars by 45 percent and risk of moderate-to-critical injury by 50 percent. For light truck occupants, safety belts reduce the risk of fatal injury by 60 percent and moderate-to-critical injury by 65 percent.

By now, most of us have become familiar with the supplemental restraint system, or airbag. It is estimated that, as of 1997, there were more than 63 million airbag equipped passenger vehicles on the road. Airbags, combined with safety belts, offer the most effective protection available today for passenger vehicle occupants. According to the National Highway Traffic Safety Administration (NHTSA), airbags have saved some 1700 lives over the past several years, but are also responsible for the deaths of more than 30 children and 20 adults since 1990. Investigations of these airbag related fatalities indicate that in most of these cases, the individuals killed were improperly or completely unbuckled. The

best way to prevent airbag-related injuries and fatalities is through correct use of safety belts and child safety seats.

Currently, 14 states and the District of Columbia have a primary safety belt law. Thirty-five states, including Kansas, have secondary laws. In 1997, the average belt use rate reported by states with a secondary law was 62 percent, compared to 79 percent in states with a primary law (including D.C.). Here in Kansas, our safety belt use rate was 59 percent for 1998. It is thought that with a primary safety belt law, Kansas could reap the benefits of a possible 17 percent or more increase in our usage rate. An increase in usage simply equates to a decrease in injuries, deaths and the costs associated with these types of crashes to society.

While the current safety belt use law in Kansas has reduced the state's fatality rates, there is more that can be done to reduce injuries and deaths from non-compliance. All too often, persons are observed unrestrained in vehicles. Under the current system, a police officer can not take enforcement action without first observing and issuing a citation for another violation.

In closing, there is no doubt the Patrol has countless hours of hands on experience with the benefits of buckling up. Troopers have seen the unnecessary injuries and deaths associated with the failure of buckling up. SB 50 takes current law to the next step, proactive enforcement. The Kansas Highway Patrol urges this Committee to give SB 50 a favorable report for its potential life-saving efforts.

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**KANSAS DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY OF TRANSPORTATION**

E. Dean Carlson
SECRETARY OF TRANSPORTATION

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Bill Graves
GOVERNOR

**TESTIMONY BEFORE
SENATE TRANSPORTATION COMMITTEE**

**REGARDING SENATE BILL 50
STRENGTHENING OF SAFETY BELT LAWS**

January 27, 1999

Mr. Chairman and Committee Members:

I am Dean Carlson, Secretary of the Department of Transportation. On behalf of the Department of Transportation, I am here today to testify on Senate Bill 50 regarding the use of safety belts.

Studies have shown that increasing occupant protection usage is one of the most effective countermeasures for reducing injuries and fatalities incurred in motor vehicle crashes. In states that have primary laws, experience has shown that the usage rate is generally 10 to 15 percentage points higher than states with secondary laws, and fatalities and injuries are much lower.

Research by the National Highway Traffic Safety Administration (NHTSA) indicates that, when properly used, safety belts reduce the risk of fatal injury to front seat passenger car occupants by 45 percent. Of the 383 front-seat occupants who died in 1997 on Kansas roadways, 235 or sixty percent, were reported not wearing safety belts.

Since the passage of the Kansas safety belt law in 1986, the usage rate in Kansas has climbed from 10 percent to 59 percent in 1998. Based upon NHTSA calculations, KDOT estimates that for the years 1986 through 1997, the latest year crash statistics are available, 619 lives were saved due to that increased usage. The national average for safety belt usage is 69 percent. Using formulas derived by NHTSA, if the Kansas usage rate was equal to the national rate an additional 45 lives each year could be saved.

TEA-21, the Transportation Equity Act for the 21st Century, created Section 405 which was designed as an incentive program for occupant protection. Eligibility requires compliance with four of six criteria. KDOT currently complies with two criteria and are awaiting review by the National Highway Traffic Safety Administration for compliance with a third criteria. If Kansas would comply with a third criteria; a safety belt law providing for primary enforcement would gain one more criteria reaching the four needed to qualify for federal funding. Kansas

would receive an estimated minimum amount of \$40,000 and a maximum amount of \$528,000 in Federal Fiscal Years 1999 and 2000, based upon the number of states eligible for funding. To maintain eligibility in FFY 2001, the Kansas safety belt law would have to apply to all seating positions in a vehicle, or the fine would have to be increased from the current \$10. National funding for FFY 1999 and 2000 begins at \$10 million with authorization through FFY 2003 and the national funding level raising to \$20 million. Kansas' allocation in any year would be contingent upon the number of states applying.

In summary, amending the current secondary enforcement safety belt use law to primary enforcement would send a clear message to Kansas motorists that safety belt use is considered mandatory for the safe operation of a motor vehicle. A primary enforcement law would elevate non-use of safety belts to a level that law enforcement could treat the same as any other hazardous moving violation, and ultimately reduce injuries and save lives. Passage of this bill also could possibly make Kansas eligible to receive occupant protection incentive grant funds in the highway safety portion of TEA 21.

MEMORANDUM

TO: Senator Ben Vidricksen, Chair
Senate Transportation and Tourism Committee

FROM: Teresa L. Sittenauer
Kansas Peace Officers Association

DATE: January 27, 1999

RE: SB 50

Mr. Chairman, members of the committee, my name is Teresa Sittenauer and I appear today on behalf of the Kansas Peace Officers Association ("KPOA"). KPOA is comprised of approximately 3,500 members of the law enforcement community throughout Kansas. We appreciate this opportunity to express our support of SB 50, which amends K.S.A. 8-2503 to create a primary enforcement mechanism for the state's existing seat belt law.

Current Kansas law, adopted in 1986, mandates that each front seat passenger have a safety belt properly fastened while the vehicle is in motion. Current law, however, does not allow law enforcement officers to stop drivers for violation of the law; a separate violation must be the basis for the stop. Further, a citation for failure to wear a seat belt cannot be issued without a citation for the violation that formed the basis for the stop. SB 50 would eliminate this language—referred to as a secondary enforcement provision—to allow law enforcement officers to stop drivers where the officer has observed a violation of the seat belt law. SB 50 would allow law enforcement officers to treat seat belt violations like any other traffic violation and stop a vehicle solely for that reason.

SN. TRANSPORTATION & TOURISM COMM.
January 27, 1999
ATTACHMENT #7

7-1 7

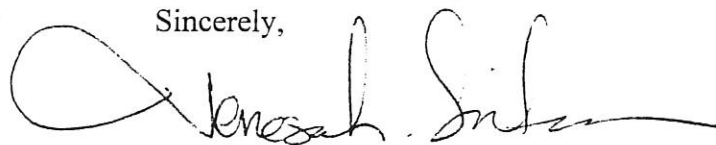
Forty-nine states and the District of Columbia have some form of seat belt law. New Hampshire is the only exception. Currently, 14 states, Puerto Rico, and the District of Columbia have passed primary enforcement laws. All have witnessed a significant increase in seat belt use. For example, in California, where primary enforcement has been in effect since 1993, seat belt use has risen to 90 percent. In Louisiana, seat belt use has increased from 50 percent in 1995 to 75 percent in 1997. In Maryland, seat belt use has increased from 70 percent to 83 percent since the passage of its primary enforcement law in 1997. Overall, states with primary enforcement laws have an average 78 percent seat belt use rate, compared to the national average of 69 percent.

Lap and shoulder belts, when used, are the single most effective means for occupants to reduce the risk of death and serious injury in a motor vehicle crash. Primary enforcement mechanisms built into seat belt laws in other states have drastically increased seat belt usage. Primary enforcement promotes seat belt usage by providing a deterrent to those who would not otherwise wear seat belts. It sends a clear message that the state considers belt use mandatory for the safe operation of a vehicle. This is a message that will save lives.

We appreciate this opportunity to appear in favor of SB 50. We urge the committee to vote in favor of this bill.

Please do not hesitate to contact me if you have questions or need further information.

Sincerely,

A handwritten signature in black ink, appearing to read "Teresa L. Sittenauer". The signature is fluid and cursive, with a large loop at the beginning and a long horizontal stroke at the end.

Teresa L. Sittenauer



Testimony in Support of SB 50

Senate Transportation Committee

January 27, 1999

**Presented By: Lesley Huston
AAA Kansas**

Good morning Mr. Chairman and Members of the Committee. Thank you for the opportunity to appear in support of SB 50. My name is Lesley Huston and I appear today on behalf of AAA Kansas and AAA Missouri. Together we represent more than 180,000 members in Kansas.

By way of background, the American Automobile Association was founded principally in an effort to support and promote highway safety. At AAA, it is our responsibility to represent the interests of motorists and travelers with regards to transportation, safety and environmental issues. To that end, AAA provides (among numerous other things) safety educational courses in which safety belt usage is a key component of each class. Additionally, AAA, in partnership with several governmental agencies publishes safety belt informational materials for adults and children including our 1997 campaign "The Back is Where Its At" that reached over 31 million children across the country!

Because highway and motorist safety is the foundation on which AAA was built, we feel it is our obligation to appear before this Committee and support SB 50 in effort to help save lives on our Kansas roads. It is our opinion that the passage of SB 50, along with any other efforts that this legislature can make to force people to use their seat belts, will help in this effort.

There is no shortage of statistical information available to support the policy behind this bill. We have found the most interesting information to be from those states that have passed a similar law to the one you are considering today. For instance, Louisiana noticed a 17% increase (up to 67%) in seat belt use since passing its law in 1995. North Carolina seat belt use rose from 64% to 82% in less than 2 years with the passage of its legislation. In addition, a survey of California motorists after the state legislature adopted a standard law, showed that 55% of the people questioned said they were using safety belts more often than they did before a standard law was instituted.

Further, NHTSA (National Highway Traffic Safety Administration), estimates that from 1975 to 1997 that 100,998 lives have been saved by the use of safety belts! If every state increased its seat belt usage by just 15 percentage points, we could prevent 1,900 deaths and 50,000 injuries, and generate close to \$3 billion dollars in economic savings!

Again we ask for your support for SB 50. Thank you for allowing me to appear before your Committee and I would be happy to respond to any questions.

MEMORANDUM

TO: Senator Ben Vidricksen, Chair
Senate Transportation & Tourism Committee

FROM: William W. Sneed
State Farm Insurance Companies

DATE: January 26, 1999

RE: SB 50

Mr. Chairman, members of the committee, my name is Bill Sneed and I appear today on behalf of The State Farm Insurance Companies. State Farm is the largest auto insurer in Kansas. We appreciate the opportunity to appear in support of SB 50, which creates a primary enforcement mechanism for the seat belt law located at K.S.A. 8-2503.

Kansas law currently requires that front seat passengers wear a seat belt in a moving vehicle. Seat belts are the most effective means of reducing fatalities and serious injuries when traffic crashes occur. Seat belts save an estimated 9,500 lives in America each year. Research shows that seat belts, when used properly, reduce the risk of fatal injury to front seat passengers by 45 percent and the risk of moderate to critical injury by 50 percent.

Each year, traffic crashes in America claim approximately 41,000 lives and cost Americans \$150 billion in economic terms, including \$17 billion in medical and emergency expenses, lost productivity, and property loss. They are the leading cause of

on-the-job fatalities and the third leading cause of death for all Americans; only cancer and heart attacks claim more lives. However, far more people are injured and survive motor vehicle crashes than die in these crashes. In 1995, while almost 41,800 people were killed in traffic crashes, more than 3.4 million injuries were documented in police-reported crashes.

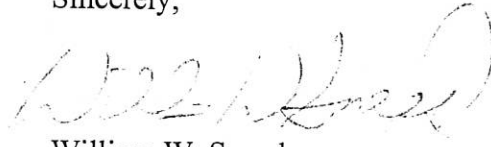
The cost of personal pain and suffering, the loss of a loved one, and serious injury to a family member cannot be measured. However, it is uncontroverted that every person in America also bears the economic costs of motor vehicle crashes. These include the costs of emergency response providers, higher medical and insurance costs, and lost productivity. When motorists and passengers do not wear seat belts, these costs increase considerably because the injuries are more serious. The combined costs to government, health care systems, business, and individuals make this an issue of universal importance.

Fourteen states, Puerto Rico and the District of Columbia have primary enforcement laws. In each of these states, seat belt usage has increased as a result of primary enforcement. Georgia is a dramatic example. Prior to the enactment of a primary enforcement mechanism in July 1996, seat belt usage rested at 51 percent. In a matter of five months, usage had climbed to 63 percent. In the next year and a half, usage climbed to 76 percent.

Primary enforcement has been shown to increase seat belt usage, which not only saves lives, but curtails to some degree the economic impact of unbelted crashes. For these reasons, we urge your favorable consideration of SB 50.

We appreciate this opportunity to appear on behalf of SB 50. Please do not hesitate to contact me if you have questions or need further information.

Sincerely,

A handwritten signature in cursive script, appearing to read "William W. Sneed". The signature is written in dark ink and is positioned above the printed name.

William W. Sneed

KANSAS SENATE
COMMITTEE ON TRANSPORTATION AND TOURISM
Wednesday, January 27, 1999

SENATE BILL (SB) NO. 50

My name is Steve Dickerson and I am President of the Kansas Trial Lawyers Association (KTLA). KTLA always welcomes the opportunity to appear before this committee as it considers and works legislation affecting consumers' legal interests. Thank you for the opportunity to be heard.

KTLA advocates the use of safety belts and responsible measures which encourage safety belt use. Sections 1 and 2(a) of SB 50 strengthen the enforcement mechanism of the safety belt use act and KTLA has no position on these sections of the bill.

Section 2(c) of SB 50 radically changes prevailing law by sanctioning the admissibility of evidence of nonuse of a safety belt in personal injury and wrongful death actions. KTLA vigorously opposes this section.

If Section 2(c) aims to encourage the use of safety belts, it badly misses its target. This section will not improve compliance with safety belt laws. Instead, it will allow wrongdoers, and their insurers, to blame others for their driving misdeeds to the shock and dismay of victims. Most Kansans will never know until its too late that they could be seriously injured or killed at the hands of a drunk driver and the drunk may not be fully accountable for the harm inflicted.

Again, Section 2(c) makes a 180-degree change in existing law and allows the introduction of evidence of the nonuse of a safety belt in motor vehicle collision cases. This reversal of prevailing and longstanding law is bad policy for Kansas and Kansans for many reasons including the following:

1. On several prior occasions the Kansas Legislature has considered whether the nonuse of a safety belt should be admissible in a civil action for a victim's personal injury or wrongful death arising out of a motor vehicle collision, most recently in the 1997 Legislature during consideration of HB 2165 by the House Transportation Committee. On each such occasion the Legislature did the right thing and rejected the measure. Circumstances have not changed. There is simply no compelling reason to revisit this issue or to pass the measure now.

2. Governor Graves has observed that most Kansans are conservative, levelheaded, and doing their best to balance their careers, their families and their sense of community. These obligations keep Kansans out on our roads and highways. Kansans usually buckle-up and Kansas parents usually buckle-up their children. If Kansans aren't buckled, many times it is for a good reason. Section 2(c) of SB 50 insulates wrongdoers from full responsibility for harm caused to responsible, well-intentioned Kansans who are seriously injured or killed in a motor vehicle collision regardless of whether it was reasonable to be unbuckled at the moment of a collision.

3. As legislators well know, Kansans, like the citizens of many midwestern and western states, often have long drives to negotiate. Everyday, responsible Kansas drivers and passengers momentarily forget to buckle and responsible Kansas passengers must briefly unbuckle to take care of something important like changing a diaper. It just isn't good public policy to allow wrongdoers to avoid full responsibility for harm caused to these unbuckled, but otherwise responsible drivers and passengers. Pulling off to the side of an interstate highway for a passenger to change a diaper is not always a better or safer solution. Many parked cars and pedestrians on highway shoulders are struck by passing motorists.

4. Parents are particularly sensitive to the occasional need to unbuckle. Sometimes a small child must be breastfed or comforted or changed while the family is out on the highway. Is this parental conduct irresponsible? Section 2(c) of SB 50 thinks so because it exacts a heavy penalty across the board regardless of the circumstance.

5. We love our teenagers and do our level best to educate, instruct and guide them as they navigate their way to adulthood, but teenagers get distracted. When a teenager's transgression is forgetting to buckle-up one time, is it fair for a reckless driver to evade full responsibility for the teenager's injury claim or the claim for the teenager's wrongful death just because of the teenager's momentary lapse of judgment?

6. Many Kansans are engaged in employments or occupations which require frequent entry into and exit from their vehicles. It doesn't make good sense to allow the law

to gut what would and should be a meritorious personal injury or death claim just because the victim's safety belt wasn't fastened. For example, farmers and ranchers must often drive and maneuver through many gates to do their job. If an unbuckled farmer is hit by a drag racer as the farmer crosses the road going from one gate to another gate, why should the wrongdoer be able to elude full accountability for the farmer's injuries or death?

7. In the eyes of many Kansans mandatory safety belt laws smack of government inappropriately interfering with the lives of citizens and telling them what to do. Some Kansans have earnestly decided that safety belts aren't as safe as represented and may decline to use them for personal reasons especially on low-speed urban streets. Recent studies have warned of the dangers of safety belts for pregnant women, and many late-term pregnant mothers fear that a safety belt might harm the child they are carrying and are reluctant to always use them. If one of these Kansans is killed when a drunk driver swerves across the centerline of the highway, is it really right to allow the trial to become a circus on whether a seat belt would have saved the life?

8. The axiom that everything affects everything else, sometimes unintentionally, certainly comes to mind when evaluating Section 2(c) of SB 50. Someone has to bear the financial burden of the victim's medical bills, wage losses, expenses and disabilities. If the wrongdoer can escape financial responsibility for the consequences of the wrongful act, then someone else, for example, Medicaid (SRS), Medicare, charity or the taxpayers, will have to foot the bills. The wisdom of shifting financial responsibility from the wrongdoer is not readily apparent.

9. Although it isn't commonplace, some safety belt systems have failed to properly work in a collision. Some have even disconnected. Is it fair for the victim of such an equipment failure to have his or her meritorious injury or death claim against a careless driver impaired as a result of the introduction of alleged nonuse evidence?

10. The first reaction of some crash victims, even if semi-conscious when their vehicle comes to rest, is to unsnap their belt. It may appear they weren't belted when they were. These situations will create nonuse claims and controversy.

11. If Section 2(c) of SB 50 is enacted alleged nonuse evidence will unfortunately become the focus of many motor vehicle collision cases. The settlement of claims will be obstructed. Also, a cadre of safety belt expert witnesses will emerge and more complicated, longer and more expensive cases and trials will inevitably follow.

12. Although there is evidence that safety belt use saves lives, there is also evidence that safety belts cause or contribute to certain injuries and that their effectiveness may be overstated in some applications. Forcing juries to hear and make sense of this sometimes conflicting evidence every time there is an allegation of nonuse is unproductive and fraught with pitfalls. Airbags underscore the potential for confusion and distraction. For years there was seemingly solid, persuasive evidence that airbags were safe and saved lives. More recent airbag developments have certainly clouded what was conventional wisdom. Alleged nonuse evidence invites speculation and conjecture which are inappropriate in a courtroom.

13. At last count nonuse evidence was inadmissible in 35 states including Kansas. Another three states narrowly limit the admissibility of the evidence and/or minimize its potential to affect a claim's outcome. The status of admissibility is generally unsettled in another four states. The Kansas rule is clearly consistent with the rule in the overwhelming majority of jurisdictions.

In the end this is a public policy issue and the best public policy is to leave the existing law alone. The present statute reasonably strikes a common sense balance by requiring safety belt use but keeping the trial of auto collision cases focused on driving fault and the nature and extent of the injuries suffered instead of the collateral, side issue of nonuse.

A traveler always has the right to assume the highway is reasonably safe for travel and that other drivers will obey the rules of the road. But for the random intervention of the wrongdoer's driving negligence, the injury or death never would have happened.

ABATE of Kansas Inc.

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Perry, Kansas
66073



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1-800-657-5763
FAX 913-597-5015

TESTIMONY OF SB 50 SEAT BELTS AS A PRIMARY OFFENCE

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE

THANK YOU FOR THIS OPPORTUNITY TO TESTIFY TODAY IN OPPOSITION TO SB 50. I DO NOT DENY THAT ON THE WHOLE USE OF SEAT BELTS CAN SAVE LIVES AND PREVENT INJURIES IN MOST TYPES OF ACCIDENTS.

IN SOME CASES HOWEVER PEOPLE LIKE MYSELF WHO MUST SIT CLOSE TO AND UNDER THE STEERING WHEEL SO THEY CAN REACH THE PEDALS ARE IN DANGER OF INJURIES WEARING SEAT BELTS THAT TALLER PEOPLE ARE NOT SUBJECT TO.

THIS SUMMER I ROLLED MY TRUCK DOWN A 30 FT. EMBANKMENT OR AT LEAST SO I'M TOLD SINCE FOR ME MAY, JUNE AND JULY DIDN'T HAPPEN.

ON IT'S WAY DOWN THE STEERING WHEEL SPLIT MY SIDES AND MADE MY PELVIS AND HIPS LOOK LIKE A CAR WINDOW HIT WITH A BASEBALL BAT.

I'M THANKFUL SOME UNKNOWN PERSON CALLED AN AMBULANCE WITHIN A MINUTE OF MY WRECK.

I'M ALSO THANKFUL THAT WHEN THE STEERING WHEEL REACHED THE SEAT LEVEL I WASN'T STILL UNDER IT. WHILE I'LL NEVER KICKSTART MY MOTORCYCLE AGAIN OR RIDE ALL DAY, MY TIME IN A WHEEL CHAIR WAS LIMITED AND WHILE I'LL NEVER RUN AGAIN OR EVEN WALK REAL FAST I AM STILL ALIVE AND CAN WALK WITHOUT CANES OR CRUTCHES MOST OF THE TIME.

IF I HAD BEEN PENNED EVEN FOR FEW MINUTES I WOULD HAVE FINISHED DROWNING IN MY OWN BLOOD SINCE MOST OF MY RIBS WERE STICKING THOUGH MY LUNGS. THIS FROM HAVING A COMPUTER SYSTEM IN THE SEAT WITH ME. AS IT WAS I DIED AND WAS REVIVED TWICE OVER THE NEXT FEW DAYS.

SPEAKING FOR MYSELF AND THE MEMBERS OF ABATE OF KS WE BELIEVE THE SECONDARY OFFENSE STATUS OF THE PRESENT LAW GIVES US THE CHOICE THAT WE BELIEVE IS OUR RIGHT.

AS TO THE INSURANCE COMPANIES CONCERNS ABOUT BEING ABLE TO USE NONUSE OF SEAT BELTS FOR MITIGATION OF DAMAGES WE HAVE NO PROBLEM WITH THIS AS THEY HAVE NO PROBLEM WITH THE ADDITION OF A CLAUSE ALLOWING THE ADMISSIBILITY OF GREATER LIABILITY FOR DAMAGES CAUSED BY THE THE WEARING OF SEAT BELTS THAT THEY SUPPORT REQUIRING.

THANK YOU FOR YOUR TIME AND CONSIDERATION. KENNETH R. MCNEILL ABATE OF KANSAS INC. I'LL STAND FOR ANY QUESTIONS THE COMMITTEE MAY HAVE.

Testimony

Senate Transportation and Tourism Committee

January 27, 1999

Senate Bill No.50

Good Morning, Chairman Vidricksen, and members of the Committee,

I am Gene Johnson and I represent the Kansas Community Alcohol Safety Action Project Coordinators Association. We are the organizations, who, at the direction of the court, provide alcohol and drug evaluations, sentence recommendations and supervise those persons who have been convicted or granted diversion from DUI or other alcohol and drug offenses. In addition, we provide evaluations as needed for all persons under age 21 who have violated our alcohol and drug laws in the State of Kansas.

Our organizations has been active in traffic safety since our inception in 1981, when we introduced the present DUI law. Throughout the years we have promoted traffic safety - especially in regard to the use and abuse of alcohol and other drugs. In addition, we have always been a supporter of other safety measures, such as seat belts.

We are supportive of seat belts in as far as the language in this bill is concerned, until page 2, line 7 and 8. The language in that particular section presently is as follows, "(c) Evidence of failure of any person to use a safety belt shall not be admissible in any action of the purpose of determining any aspect of comparative negligence or mitigation of damages."

If the language proposed in Senate Bill 50 strikes the "shall not" in line 7 and replaces it with "may be" in line 8, the new language as proposed would be "evidence of failure of any person to use a safety belt, may be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages."


We object to this proposed change in the language. Even though a person may not be wearing a seat belt, at the time of an accident, he or she may not be at fault. To

give you an example, a person may be operating a vehicle within the Law or possibly stopped at a stop sign, and not wearing their seat belt, but be involved in an accident with a person who is operating a vehicle under the influence of alcohol or drugs. It would appear the person who is operating the vehicle without wearing a seat belt, which under present law is not even a traffic infraction, might be penalized in civil procedures pursuing damages for personal injury from a person who is convicted of a crime of DUI.

We would hope this committee would consider not changing this particular language in the present statute, to protect those persons who inadvertently fail to fasten their seat belts.

Thank you for allowing me to appear before the Committee. I will attempt to answer any questions.

Respectfully



Gene Johnson

Legislative Liaison

Kansas Community Alcohol Safety Action

Project Coordinators Association



January 27, 1999

Testimony Presented to the Senate Transportation Committee

Senate Bill 50

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Chapter

Horace Hartley
Kansas State
Association of Fire Chiefs

Linda J. DeCoursey
Kansas Insurance
Department

Anne L. Humphrey
Kansas Hospital
Association

Darlene Whitlock
Kansas Emergency
Nurses Association

Darral Lang
Kansas State Department
of Education

Del Meier
Salina Chapter,
Kansas SAFE KIDS
Coalition

I am pleased to provide testimony today on behalf of the Kansas SAFE KIDS Coalition - a nonprofit organization composed of more than 60 statewide businesses and organizations that have joined together to protect Kansas children from the number one killer of Kansas kids - unintentional injury. Our Coalition is not only an organization, we're parents, grandparents, aunts and uncles who want to protect our children. The Kansas SAFE KIDS Coalition supports Senate Bill 50, which promotes safety belt use in our state by making the offense a primary one. While our Coalition is concerned about the safety of all Kansas Citizens, our primary mission is to prevent unintentional injuries in children.

Although Kansas currently has a primary child passenger safety law, recent usage surveys indicate that 42% of Kansas children ages 4-14 are still not protected by a booster seat or seat belt. Twenty six percent (26%) of Kansas children age 0-4 are still not protected by a child safety seat. Over the last three years, 7,386 Kansas children age 0-14 were killed or injured in motor vehicle crashes. Approximately 77% of the children killed or seriously injured were not properly protected by a child safety seat or wearing a safety belt.

Studies consistently show that the best way to get children buckled up is to get adults buckled up. According to observational data, when a driver buckles up, children are buckled up 87% of the time, however, when a driver is unbuckled, child belt use drops to only 24%. A recent study reported in the journal Pediatrics found "Driver restraint use was the strongest predictor of child restraint use ... a restrained driver was three times more likely to restrain a child." Proper child restraint has become even more important now that air bags are more common in passenger vehicles. According to investigations, almost all of the children involved in auto crashes who have died of air bag related injuries were completely unrestrained, or improperly restrained in the front seat.

Many drivers just don't believe they'll be in a crash, so they don't put on their own seat belt or make sure that children are restrained. The possibility of being stopped and ticketed (i.e., primary law) is a necessary step for many drivers to properly protect children by always buckling them up.



SENATE TRANSPORTATION & TOURISM COMMITTEE

January 27, 1999

ATTACHMENT #13

**Kansas SAFE KIDS Coalition
Testimony SB 50 - Page two**

A survey of parents who have infants shows that the lack of adult belt use particularly endangers babies; parents who don't buckle up are more likely to improperly place babies in the front seat, leaving them at serious risk of being injured or killed in a motor vehicle crash.

In addition to the tremendous personal toll when a child is killed or injured, research has shown that seat belts and child safety seats also save money. For children ages 0-4, every \$45 child safety seat saves this country \$85 in medical expenses. Hospital costs average \$5000 more per crash for those individuals not wearing their seat belts as opposed to those that do.

Primary seat belt use laws have been shown to be effective in increasing safety belt use. Primary enforcement sends motorists a clear message that the state considers belt use necessary for the safety of motor vehicle occupants.

In summary, the Coalition urges your support of SB 50. We feel that making the current safety belt law a primary law will increase safety belt use by adults, teens and children. The end result will be fewer Kansas children injured and killed in motor vehicle crashes.

Testimony Presented by:

Jim Keating
Chair, Public Policy Committee
Kansas SAFE KIDS Coalition
(913) 437-6287