

Approved: March 30, 2000
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Chairperson Michael R. O'Neal at 3:30 p.m. on March 21, 2000 in Room 313-S of the Capitol.

All members were present.

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department
Jill Wolters, Office of Revisor of Statutes
Cindy O'Neal, Committee Secretary

SB 366 - New Article 8 - UCC

Representative Loyd made the motion to add a nonuniform phrase, "a writing that would otherwise qualify as a certificate of deposit, as defined in subsection (j) of K.S.A. 84-104, and amendments thereto, but for the fact that the writing contains a limitation on transfer." Representative Crow seconded the motion. The motion carried.

Representative Lloyd made the motion to delete the following language from each subsection: "In a transaction other than a consumer goods transactions". Representative Loyd seconded the motion. The motion carried.

Representative Carmody made the motion to add to Section 9-201(b): "A transaction subject to this article is subject to any applicable rule of law which establishes a different rule for consumers, to any other statute or regulation of this State that regulates the rates, charges, agreements, and practices for loans, credit sales, or other extensions of credit, and to any consumer-protection statute or regulation of this State." Representative Loyd seconded the motion. The motion carried.

Representative Crow made the motion to delete the phrase in subsection (a)(2) "and any non-Uniform Commercial Code central filing law of this state:, in subsection (b)(2) delete the word "and", and insert the words "of this state" in section 9-334(j) and 9-40(e). Representative Long seconded the motion. The motion carried.

Representative Long made the motion to amend New subsection (4) to read "if the debtors are married debtors jointly engaged in business and it is unclear whether a partnership exists, the financing statement may be filed in the names of the individual debtors." Representative Loyd seconded the motion. The motion carried.

Representative Long made the motion to strike \$500 penalty and restore to \$100 and strike section F on statutory damages. Representative Lightner seconded the motion. The motion failed 4-8.

Representative Pauls made the motion to clarify in Section 9-109(d) that "This article does not apply to an assignment of rights in or under a claim or right to receive benefits under any workers' compensation, industrial accident or similar statute or regulation which provides benefits for occupational injury or illness." Representative Gregory seconded the motion. The motion carried.

Representative Loyd made the motion to define statutory liens by listing all types and adding the statutory lien references. Representative Carmody seconded the motion. The motion carried.

Representative Carmody made the motion to report SB 366 favorably for passage, as amended. Representative Loyd seconded the motion. The motion carried 11-7.

SB 504 - Judgements in certain limited actions for possession for nonpayment of rent

Representative Carmody made the motion to amend in HB 2697 - recodification of Chapter 61, as it was reported out of House Judiciary Committee favorably, as amended, but failed. Representative Loyd seconded the motion. Some members discussed that Judges in their district did not ask for the recodification and they do not want it. They believe that the current Chapter 61 statute is working fine. The motion carried 10-9.

Representative Powell made the motion to increase the threshold to \$25,000. Representative Loyd seconded the motion. The motion carried 10-9.

Representative Klein made the motion to increase the threshold from \$25,000 to \$50,000. Representative Ruff seconded the motion. The motion failed 6-10.

Representative Carmody made the motion to delete the provisions of **SB 504** from the bill. Representative Gregory seconded the motion. The motion carried.

Representative Carmody made the motion to report **Substitute SB 504** favorably for passage. Representative Loyd seconded the motion.

Representative Klein made the substitute motion to report the bill unfavorably. Representative Rehorn seconded the motion. The Chairman informed the committee that a opposite motion was not in order. The motion was withdrawn.

Representative Klein made the substitute motion to table **Substitute SB 504**. Representative Pauls seconded the motion. The motion failed 9-10. The motion to report the bill favorably for passage carried 10-9.

SB 491 - Sentencing dispositions, supervision & violators

Representative Carmody made the motion to report **SB 491** favorably for passage. Representative Lloyd seconded the motion.

Representative Haley made the substitute motion to amend in **HB 2309 - presumptive sentences for hate crimes**. Representative Ruff seconded the motion. The motion failed 6-12.

Representative Loyd made the motion to amend the language authorizing four positions on the Court of Appeals. One new position to be created each year for the next three years. Representative Howell seconded the motion. The motion failed 7-10.

Representative Carmody made the motion to have the revisor clean-up the repealer. Representative Gregory seconded the motion. The motion carried.

Representative Carmody made the motion to report **SB 491** favorably for passage, as amended. Representative Ruff seconded the motion. The motion carried. Representative Edmonds & Crow requested they be recorded as voting no.

SB 490 - Placement of offenders in community correctional programs

Representative Rehorn made the motion to adopt an amendment which would allow the courts to place adult offenders whose offenses are classified at a level 6 or 7 of the sentencing guidelines grid for nondrug crimes in community corrections. Representative Haley seconded the motion. The motion carried.

Representative Carmody made the motion to have revisors clean-up in Subsection (a)(2) and change the "and's" to "or". Representative Loyd seconded the motion. The motion carried.

Representative Carmody made the motion to report **SB 490** favorably for passage, as amended. Representative Loyd seconded the motion. The motion carried.

SB 429 - DUI suspension of drivers' licenses

Representative Pauls made the motion to adopt the Department of Vehicles amendments (Attachment 1). Representative Swenson seconded the motion. The motion carried.

Representative Loyd made the motion to amend the bill so any person less than 18 years of age who violates the bill as part of the penalty, the division would suspend their driving privileges for a period of one year. Representative Ruff seconded the motion. The motion carried.

Representative Pauls made the motion to report **SB 429** favorably for passage, as amended. Representative Long seconded the motion. The motion carried.

CONTINUATION SHEET

SB 431 - Addition of unwanted charges to telephone bills prohibited

Representative Loyd made the motion to strike lines 19-21. Representative Powell seconded the motion. The motion carried.

Representative Loyd made the motion to report SB 431 favorably for passage, as amended. Representative Lightner seconded the motion. The motion carried.

SB 319 - Enforcement of county resolutions in district court

Representative Powell made the motion to have 25% of the court cost going to the Judicial Operations Fund to help with Court operations and that the State General Fund not be allowed to offset by appropriations. Representative Loyd seconded the motion. The motion carried.

Representative Loyd made the motion to amend on page 4 to have the enforcement of order of appeal denovo to the District Court Judge. Representative Gregory seconded the motion. It was pointed out that this was already included in the bill. With permission of the second, Representative Loyd withdrew his motion.

Representative Carmody made the motion to allow the revisor to clean-up statutory references. Representative Lightner seconded the motion. The motion carried.

Representative Powell made the motion to cap court costs at a maximum of \$60.00. Representative Gregory seconded the motion. The motion carried.

Representative Pauls made the motion to amend on page 4, to have the pro-tem judge which is currently appointed and payed by the County commission to have the pro-tem judge elected for a period of four years. Representative Long seconded the motion. The motion failed 6-7.

Representative Powell made the motion to report SB 319 favorably for passage, as amended. Representative Crow seconded the motion. The motion carried.

The committee meeting adjourned at 6:10 p.m.

Paragraph (a) of Section 1 is based upon the New York legislation which was referred to by the Kansas Supreme Court in *Bowie*. In effect, it suspends the privilege of an unlicensed driver to obtain a license for the same period of time that a licensed driver would have a suspension of driving privileges. We also included a provision relating to restrictions which would allow an unlicensed driver to obtain a license during the restriction period, subject to the same restrictions that would be applied to a licensed driver. See N. Y. Veh. & Traf. Law § 510.

Paragraph (b) is in response to the comment by the Court that there was no authorization for the Division to record information regarding offenses by unlicensed drivers which would otherwise be suspendable offenses. The State of Washington enacted similar language in R.C.W. 46.20.317.

Paragraph (c) sets out the specific legislative intention that the purpose of the statute is to make non-resident and unlicensed drivers subject to the same driving sanctions as licensed residents. The State of Mississippi included a similar statement of purpose in its definition of "driving privileges" in an attempt to accomplish a similar purpose to this legislation. See Miss. Code Ann. § 63-11-3.

Section 2 amends K.S.A. 8-258 to provide that an unlicensed driver subject to Section 1 cannot obtain a license in another state and drive on that license to avoid the suspension entered under Section 1.

Section 3 amends K.S.A. 8-262 to provide that driving while the privilege to obtain a license is suspended or revoked under Section 1 will be a violation of K.S.A. 8-262.

We also proposed that language in K.S.A. 1999 Supp. 8-262(a)(2) be deleted. The deleted language referred to former K.S.A. 8-256(b) which was removed from K.S.A. 8-256 in 1994.

Section 4 amends K.S.A. 8-285 to provide that driving while the privilege to obtain a license is suspended or revoked under Section 1 will be included as one of those offenses which can lead to a habitual violator revocation.