

MINUTES OF THE HOUSE TRANSPORTATION.

The meeting was called to order by Chairperson Gary Hazylett at 1:30 p.m. on February 20, 2001 in Room 519-S of the Capitol.

All members were present except:

Committee staff present:

Bruce Kinzie, Revisor
Hank Avila, Research
Ellie Luthye, Committee Secretary

Conferees appearing before the committee:

Jim Keating, Safe Kids Coalition
Trista Beadles, Governor's office
Representative Sue Storm
Corporal Jeff Whistler, Topeka Police Department
Officer Darrin Scott, Topeka Police Department
Jim Yonally, Verizon Wireless
JohnFederico, General Motors
Mike Reece, AT&T
Steve Kearney, Alltel Communications
Nelson Krueger, Western Wireless
Mike Murray, Sprint
Sandy Braden, Cingular Wireless

Others attending:

See attached sheet

Chairman Hayzlett called on Jim Keating, Safe Kids Coalition, to give a report on why Kansas is receiving failing grades when it comes to their child occupant protection laws. Mr. Keating called on Trista Beadles from the Governor's Office to give some background on our current seat belt laws. He then presented statistics showing state ratings by points and grade and how these ratings were assessed. He concluded by giving the standard they feel a law should be modeled after. (Attachment 1)

HB 2440 - restricting use of cellular telephones while driving

Chairman Hayzlett then opened hearings on **HB 2440** and called as the first proponent Representative Sue Storm. She stated if the bill were to become law, it would be unlawful for any person to drive on a public highway while using a hand-held cellular telephone, however this would not apply to hands-free devices. She said there was growing evidence that cell phones have been suspect in numerous vehicle crashes and since 1995 at least 37 states have proposed various types of legislation concerning cellular phones in automobiles. As of this date, however, only three have been successful. She stated the rest of the world has reacted more quickly with twenty countries now restricting or prohibiting cell phone use in motor vehicles. She concluded that 77% of her constituents, when polled, believed there should be increased penalties when a driver is ticketed or has an accident while using a cellular phone. (Attachment 2)

Joint testimony by Corporal Jeffrey Whisler and Darin Scott, Topeka Police Department, stated they are observing an ever increasing number of motorists diverting their full attention from the safe operation of their vehicles to the usage of cellular telephones. Their encounters with motorists using cellular phones while driving have ranged from speed violations to signal light violations and these and many other hazardous moving violations while using cellular phones are growing to epidemic proportions. They gave other examples of poor driving behaviors they have encountered and concluded that while recognizing cellular telephone use can be beneficial and even essential through proper and safe use, it is their observation that inattentive driving is on the increase due to persons using cellular phones while driving. (Attachment 3)

MINUTES OF THE HOUSE TRANSPORTATION COMMITTEE, Room 519-S of the Capitol at 1:30 p.m. on February 20, 2001.

Jim Yonally, Verizon Wireless, said their company promotes the use of hands-free devices and as part of a nation-wide program are offering affordable hands-free devices at dramatically reduced prices. He then listed several conditions that would need to be met to assure customer safety and he felt **HB 2440** met these conditions. (Attachment 4)

There being no other proponents the Chair called for questions from the committee.

Chairman Hayzlett called on John Federico, General Motors, as the first opponent to speak on the bill. He told the committee that while General Motors feels that legislative oversight of certain "driver distractions" is warranted **HB 2440** and the restrictions listed in the bill is not the correct approach to solving the problem. He said General Motors has unveiled the "SenseAble Driving" campaign which seeks to raise driver awareness about the dangers posed by all distractions and promotes a better understanding of how to alleviate driver distractions and that education is the better solution to increased vehicle safety. He also voiced concern about how this bill would affect their OnStar system which he said was a safety, security and information system that combines hands-free cellular phones with satellite uplinks and military technology. (Attachment 5)

Mike Reece stated that while AT&T supports safe operation of a cellular phone, legislation is not the answer to insure its effectiveness. He said to single out only one potential cause in statute of a driver becoming distracted/reckless misses the point - while one is driving stay focused on the road - and it should not matter what the cause of the inattention is. He concluded with a quote from an article he provided with his testimony which states, "Let's educate the public on making safe cell phone choices. Let's not have one more example of too much government encroaching on our choices." (Attachment 6)

Steve Kearney, ALLTEL, asked why address the issue of inattentive or reckless driving with more legislation, when there are already laws on the books today. He suggested if the penalties for inattentive and reckless driving are not serving as a sufficient deterrent, strengthen them by raising the fines and/or increasing the number of driver's license points that are taken away upon prosecution. He concluded that ALLTEL cannot support piecemeal targeting of certain items that might distract drivers. (Attachment 7)

Western Wireless representative, Nelson Krueger, said they oppose **HB 2440** because laws already exist aimed at reckless and inattentive driving, no matter what the cause. With a focus on safe driving and enforcement of existing laws, the ever-advancing technology companies will increase availability of products that are "safe-driver friendly" and it is not necessary to bog down the statute books with a confusing, cumbersome and unenforceable law that would create as much havoc as it is purported to solve. (Attachment 8)

Mike Murray, Sprint, told the committee that education is the key to safe driving and use of a wireless telephone and then quoted guidelines from education materials published by Sprint and other carriers. He stated there is much data to support that wireless phones are not the major causes of, or contributors, to traffic accidents over and above other driver distractions, **HB 2440** singles out use of a wireless phone use for penalty. He said the industry is conducting massive consumer education programs and there are enough laws on the books now to deal with dangerous drivers. (Attachment 9)

Sandy Braden, Cingular Wireless, stated motorists today face many distractions that can compete for their attention while behind the wheel and present research indicates driver inattention is a contributing factor in over 50% of all accidents. However, current data from four states indicate that wireless phone usage represents less than one-half of one percent of driver distraction accidents. In conclusion she stated Cingular Wireless is committed to promoting safe driving and educating customers on the proper use of wireless phones while driving through bill inserts, sales materials, mass media advertising, new customer information kits, newsletters and other educational materials. (Attachment 10)

Following questions and discussion from the committee Chairman Hayzlett closed hearings on **HB 2440**.

HB 2369 - cities and counties, paving materials, prohibiting the sale

Chairman Hayzlett opened **HB 2369** for discussion and final action. Representative McKinney offered an amendment which would strike "or paving services" from Section 1, line 21 and add "unless such governing body has made a determination that such paving materials are not readily available from a nongovernmental entity. The provisions of this subsection shall not apply if a governing body declares by resolution that a disaster has occurred or that the occurrence or threat of disaster or emergency may exist" on line 22, Section 1. This was seconded by Representative Ballou and the motion carried. Representative Ballou made a motion to pass **HB 2369**, as amended, seconded by Representative Phelps and the motion carried. Representative Levinson wished his "no" vote be recorded.

HB 2225 - engineering fees charged to counties for federal aid projects

Representative Vickery made a motion to pass **HB 2225** favorably, seconded by Representative Osborne and the motion carried.

HB 2290 - regulation of motor carriers, exemptions

Chairman Hayzlett called for the sub-committee report on **HB 2290**. Bruce Kinzie, Revisor, gave an overview of the report. The recommendations would define "household goods", define "private motor carrier", delete references to the Interstate Commerce Commission, which was abolished in 1995, eliminate the requirement for private motor carriers weighing less than 10,001 pounds to obtain a permit from the Commission and bring under KCC safety rules and regulations intrastate motor carriers with certain regulations. Representative Powers made a motion to accept the sub-committee report, seconded by Representative Dillmore and the motion carried. Representative Powers made a motion to pass **HB 2290**, as amended, seconded by Representative Compton and the motion carried.

HB 2291 - regulation of motor carriers

Chairman Hayzlett called for the sub-committee report on **HB 2291**. The recommended changes would delete references to the Interstate Commerce Commission, eliminate a redundant paperwork process for interstate motor carriers that transport exempt and nonexempt commodities, allow the KCC to update through its own rules and regulations, the Code of Federal Regulations regarding hazardous material to more current versions and propose new sections to address motor carrier safety ratings and civil penalties.

Representative Powers made a motion to adopt the committee report, seconded by Representative Vickery and the motion carried. Representative Vickery made a motion to pass **HB 2291**, as amended, seconded by Representative Pauls and the motion carried.

The sub-committee report on **HB 2145**, warranties on safety belts, federal standards, was not ready at this time.

Chairman Hayzlett adjourned the meeting at 3:30 p.m. The next meeting of the House Transportation Committee has not been scheduled at this time.

HOUSE TRANSPORTATION COMMITTEE GUEST LIST

DATE: February 20, 2001

NAME	REPRESENTING
Mike Murray	Sprint
Nelson Krueger	Western Wireless
Jim Yanally	Verizon Wireless
Nike Becht	AT&T
JIM KEATING	KANS. SAFE KIOS
Trista Boodles	Governor's Office
CPT MATTHEW RUZICKA	FT LEAVENWORTH KS
Don Kinsey	UTU
Jodd Johnson	KLA
Deann Williams	KMCA
Jennifer Lori	KSNT
Tom Whitaker	KMCA
Paula Lentz	KCC
Jackie Miller	KCC
Andy Shaw	KITCA
Steve Kearney	ALLTEL
JARAH THUMMEL	Kansas Aggregate Producers Assn
SCOTT SCHNEIDER	GPIBA
Don Moler	LKM

Report on the Kansas Child Passenger Law

presented to

House Transportation Committee



109 SW 9th St., Suite 602
Topeka, KS 66612-1271
(785) 296-1223
(785) 296-8645 (FAX)

Coordinator:

Jan Stegelman
Kansas Department of
Health and Environment

Executive Committee:

Dennis Cooley, MD
Medical Advisor
American Academy of
Pediatrics, Kansas
Chapter

Sgt. John Eichkorn
Kansas Highway Patrol

Sally Finney
Kansas Public Health
Association

John Hartnett
Shawnee County
SAFE KIDS Coalition

Ami Hyten
Kansas Trial Lawyers
Association

James Keating
Kansas State
Association of Fire Chiefs

Barbara D. Mitchell
Brain Injury Association of
Kansas and Greater Kansas City

The Kansas Safe Kids Coalition is a statewide organization consisting of 70 statewide organizations, associations, agencies and businesses dedicated to the prevention of unintentional injury to children. The Kansas Coalition is an affiliate of the National Safe Kids Coalition.

For the past several years, a committee of our coalition has actively discussed the need to review the Kansas Child Passenger Safety Law. The committee reported to the coalition early in 2000 that changes needed to be made to current law. The following were some of the major reasons for a change:

- ✘ At safety seat check-ups, parents consistently told workers that they relied on Kansas law to give them proper direction on how to safety transport children in their vehicles, specifically children 4 years and up were not addressed in current law, therefore, parents were unsure of when booster seats should be used.
- Injuries and deaths to children in vehicle accidents continue to increase and in most cases the children were not properly restrained. ✘
- A substantial number of children under 4 are being transported complete unrestrained in vehicles. ✘
- At car seat check-up events, 4 out of 5 seats are found to be incorrectly ✘ installed.

Our coalition discussed the committees concerns early fall last year and recognized that several other organizations and agencies shared our concerns of the current law. Our executive board looked to find a lead organization to facilitate a move to draft proposed changes to improve our Kansas Child Passenger Safety Law. During this effort we were notified that National Safe Kids was conducting a nationwide survey and rating of occupant protection laws. In January, Kansas Safe Kids hosted a meeting of all those identified as having an interest in improving Kansas law. It was at this meeting we found the Governor's office and K.D.O.T. had done some preliminary work on a draft to update the current child passenger safety law. A few weeks later the national study and rating was released and it was noted that several of the points for improvement were addressed in the earlier draft of the proposed improvement to the law. These improvements were then placed into a legislative initiative to be known as Senate Bill 172. This initiative will be further discussed at the conclusion of the national survey review.

House Transportation Committee

February 20, 2001
Attachment 1



- ◆ A review of the current Kansas occupant protection law (attached)
- ◆ Review of national rating of the Kansas Child Occupant Protection law (copy attached)
- ◆ Review of intent of Senate Bill 172 (copy attached)
- ◆ Senate Bill 172 (copy attached)
- ◆ After amendment to Senate Bill 172 yesterday in the Senate Judiciary Committee the following points of improvement remain:
 - ▶ Children under the age of four or weighing less than 40 pounds shall be properly restrained in a child passenger safety restraining system.
 - ▶ Children under the age of seven but at least four years of age or who weighs less than 80 pound but weighs at least 40 pounds shall be properly restrained in a booster seat.
 - ▶ Children seven years of age but under age 14 or weighing more than 80 pounds shall be properly restrained in a safety belt.
 - ▶ All children under the age of 14 who are passengers in a passenger car must be properly restrained. There is no exception allowing children to ride completely unrestrained due to the number of children exceeding the number of safety belts.

◆ Insert

While the above will provide substantial improvement, several other issues should be included to bring Kansas rating up to an acceptable level. Some of those issues would be the elimination of the exemption clause in current law, a defined and funded ongoing educational program and review of the fine structure for violation of the law.

Presented by:

Jim Keating, Chairperson & Legislative Liaison for Kansas Safe Kids Coalition

PO Box 56, St. Marys, Kansas 66536

Phone 785-437-6287 Fax 785-437-3166 e-mail smksfd@earthlink.net

CURRENT KANSAS LAW

K.S.A. 2000 Supp. 8-1344

- The driver of a passenger car must ensure that children under the age of four are properly restrained in a child passenger safety restraining system and children four years of age but under the age of 14 are properly restrained in a safety belt.
- An exception exists if all safety belts in seats available for children are in use by children under the 14. This allows for a child of any age to ride completely unrestrained anywhere in the vehicle so long as all the available safety belts are in use.
- Law enforcement officers are allowed to stop individuals based on a violation of this law.

K.S.A. 2000 Supp. 8-1345

- Individuals convicted of violating 8-1344 are fined \$20.
- Convictions are not construed as a moving traffic violation.
- If the driver convicted of violating 8-1344 can provide proof that they have purchased or acquired an approved child passenger safety restraining system, ten dollars of the fine and court costs shall be waived.

K.S.A. 8-2503

- All front seat occupants of a passenger car must have a safety belt properly fastened about their body at all times the car is in motion.
- Exceptions:
 - The vehicle was manufactured prior to federal law requiring safety belts.
 - An individual is unable for medical reasons to wear a safety belt and has a written statement from a licensed physician.
 - Carriers of the U.S. mail while delivering mail.
 - Newspaper delivery persons delivering newspapers.
- The secretary of transportation shall initiate an educational program designed to encourage compliance. The secretary shall also evaluate the effectiveness of this act and report its findings in the annual evaluation report on its highway safety plan required under federal law.
- Law enforcement officer shall not stop drivers for violations of this act in the absence of another violation of the law. A citation for violation of this act shall not be issued without citing the violation that initiated the stop.

K.S.A. 8-2504

- Persons violating 8-2503 shall be fined not more than \$10 including court costs.

EMBARGOED FOR RELEASE
UNTIL FEBRUARY 8, 2001

WORLD
PASSER
RISK
AMERIC



National
**SAFE
KIDS**
Campaign

A National Rating
of Child Occupant
Protection Laws

February 2001

INTRODUCTION

Despite ongoing efforts to better protect child passengers in cars, motor vehicle crashes remain the leading cause of unintentional injury-related death among children ages 14 and under, claiming nearly 1,800 lives and resulting in more than 274,000 injuries each year. There is little dispute that child safety seats and safety belts, when used correctly and consistently, are extremely effective in saving lives and preventing injuries. Yet as many as 30 percent of children in the United States continue to ride completely unrestrained. Of those who do buckle up, 4 out of 5 children are improperly secured. It is the position of the National SAFE KIDS Campaign that a strong law, strongly enforced, is a key component to address issues of nonuse and misuse.

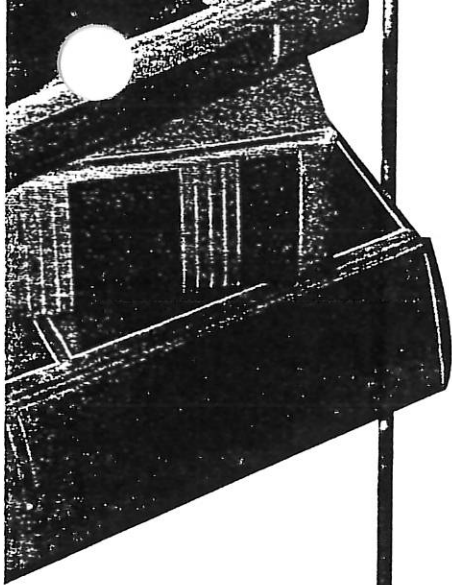
The first child occupant protection law was passed in Tennessee in 1978. Since then, all states have passed laws mandating that children be restrained in motor vehicles. Disappointingly, the number of unrestrained children injured and killed on America's roadways has remained alarmingly high for the last two decades, bringing renewed attention to all aspects of child passenger safety.

The reasons for nonuse are complex. However, experts agree that one key factor has been weak state laws, many of which have gaps in coverage related to age, seating position, lack of specific child safety seat use, and other exemptions and insufficient penalties. These laws can leave children lawfully restrained but woefully at risk. Loopholes in child passenger safety laws are confusing to parents who look to the law for guidance on how to best protect their children. They also serve as disincentives to law enforcement by negating the law's intent and failing to give police officers a clear directive to keep kids safe when traveling.

Many safety advocates are working hard to improve their state's child occupant protection laws. To further these efforts, the National SAFE KIDS Campaign has undertaken the most comprehensive review to date of our nation's child occupant protection laws. We then measured each law against a model law that we believe provides a benchmark for every state legislature. SAFE KIDS used stringent standards in grading these laws, reflecting our conviction that strong laws are an effective catalyst in changing behavior. Our purpose in rating the states is to better inform any efforts to upgrade all state laws over the next five years.



It is the position of the National SAFE KIDS Campaign that a strong law, strongly enforced, is a key component to address issues of non-use and misuse.



METHODOLOGY

Between July and December 2000, the National SAFE KIDS Campaign conducted an extensive analysis of child occupant protection laws in all 50 states and the District of Columbia.

SAFE KIDS obtained the laws from a commercial legislative database, state legislative Web sites, and state and local SAFE KIDS coalitions. The American Coalition for Traffic Safety's analysis of child safety restraint statutes, the Insurance Institute for Highway Safety's report and the American Automobile Association's traffic safety law compendium were also referenced. To the best of our knowledge, the laws that were analyzed were current as of December 31, 2000. To develop criteria to rate the states, SAFE KIDS convened consultants from leading organizations that have a vested interest in strong occupant protection laws. The consultants reviewed the draft criteria and made recommendations.

SAFE KIDS based its rating system on a 100-point scale. Grades A through F were used according to a standard academic grading system.

RATING SYSTEM

90 - 100	A
80 - 89	B
70 - 79	C
60 - 69	D
59 AND BELOW	F

A MODEL LAW: GRADING TO A STANDARD

SAFE KIDS believes a state's child occupant protection law should:

- ★ Require children through age 15 to ride restrained in all seating positions in motor vehicles;
- ★ Require children through age 8 to be properly secured in all seating positions, according to manufacturer's instructions, in a child safety seat or booster seat that is appropriate for the child's age and size;
- ★ Require children to ride in the back seat in a child safety seat, booster seat or safety belt (when both shoulder and lap belts are present), whichever is appropriate;
- ★ Provide a public fund and education campaign to promote child passenger safety;
- ★ Penalize those who do not comply with the law with penalty points, driver's license suspension and a fine of at least \$76, and require offenders to attend an educational class about child passenger safety;
- ★ Not waive penalties for those guilty of violating their state's child occupant protection law;
- ★ Not exempt drivers under any circumstance;
- ★ Require public funding of a child safety seat loaner/giveaway program;
- ★ Require car rental agencies to provide customers with child safety seats and educational materials about the state's child occupant protection law and child passenger safety.

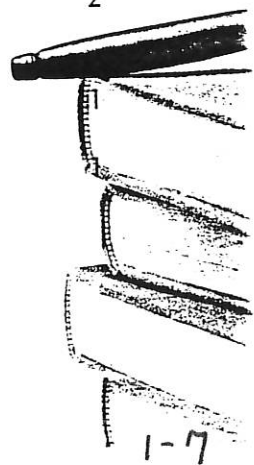
It is important to note that each grade is based solely on the law's language. Grades do not imply any correlation between a state's law and its rate of child passenger-related injury or death, nor do they reflect how well each law is enforced. Our only assumption is that a good law is the cornerstone of any state's commitment to child passenger safety.



II OINT SYSTEM

SAFE KIDS weighted each component of the model law by assigning the following point values. Each state law was then assigned points based on its ability to meet the model law standards.

	POINT VALUE
A. Restraint use required through age 15	35
Requires children through age 15 to be restrained in any seating position.	2.33/year of life
B. Appropriate child restraint requirement by age	24
Requires children to be in age- and size-appropriate restraint systems.	5 and under = 20; 4 and under = 16; 3 and under = 12; 2 and under = 8; 1 and under = 4
Specifically requires children ages 4 – 8 to ride in a booster seat.	4-8 yrs = 4; 4-7 yrs = 3; 4-6 yrs = 2; 4-5 yrs = 1
C. Proper child safety seat adjustment clause	9
Requires children to be properly secured in a child safety seat according to manufacturer's instructions, or states the necessity of properly adjusted and fastened child safety seats.	
D. Public education/public fund component	5
Requires a public fund to promote child passenger safety.	3
Requires an educational campaign to promote child passenger safety.	2
E. Penalty provisions	9
Penalizes those who do not comply with the law with penalty points or otherwise tracks violations that lead to driver's license suspension	5
- and a fine of at least \$76	4
- \$51 – \$75	3
- \$26 – \$50	2
- \$1 – \$25	1
F. No exemptions for certain drivers/circumstances	9
Provides no exemptions from the law, including non-parent/guardian drivers, out-of-state cars, non-state resident drivers, nursing parents, parents attending to a child's personal needs, situations where there are not enough safety belts for all children to be restrained, and riding in the cargo area of a passenger vehicle such as a station wagon.	
G. Other provisions	9
Specifies option for violators to attend child passenger safety class.	3
Specifies no provision for a waiver of penalties or no provision for a waiver of penalties other than allowing violators to attend a child passenger safety class in lieu of penalty points or fines.	2
Specifies back seat as the safer seating position to prevent a child from being in a potentially dangerous situation (such as in front of an air bag).	2
Establishes a child safety seat loaner program.	
Any (or all) of the following positive provisions:	
- penalizes those who sell or install a child safety device that does not meet federal standards	
- requires violators to attend child passenger safety class in addition to penalty points or fines	
- requires car rental agencies to provide customers with child safety seats and educational materials about the state's child occupant protection law and child passenger safety	
- suspends a violator's driver's license until a child safety seat is purchased.	



STATE RATINGS BY POINTS AND GRADE

SAFE KIDS
 weighted each
 component of the
 model law by
 assigning point
 values. Each
 state law was
 then assigned
 points based on
 its ability to meet
 model law
 standards.

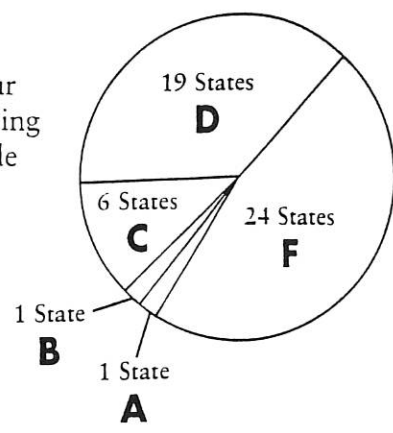


CALIFORNIA	94.00	A	MARYLAND	59.00	F
FLORIDA	80.00	B	MICHIGAN	57.00	F
NEBRASKA	77.00	C	SOUTH CAROLINA	57.00	F
WASHINGTON	76.60	C	WEST VIRGINIA	55.00	F
ALASKA	76.00	C	MONTANA	54.00	F
CONNECTICUT	76.00	C	INDIANA	52.63	F
KENTUCKY	73.00	C	KANSAS	52.29	F
MASSACHUSETTS	72.00	C	OKLAHOMA	51.96	F
COLORADO	69.00	D	TEXAS	51.62	F
DELAWARE	69.00	D	ARKANSAS	51.32	F
RHODE ISLAND	69.00	D	MISSOURI	50.00	F
NEW HAMPSHIRE	68.00	D	LOUISIANA	49.96	F
NORTH CAROLINA	68.00	D	MISSISSIPPI	49.31	F
UTAH	67.00	D	NEW MEXICO	44.30	F
VIRGINIA	67.00	D	ARIZONA	42.32	F
WYOMING	67.00	D	ALABAMA	40.65	F
NEW YORK	66.00	D	WISCONSIN	40.31	F
HAWAII	66.00	D	OHIO	39.99	F
NEVADA	64.00	D	IOWA	38.65	F
DISTRICT OF COLUMBIA	63.00	D	SOUTH DAKOTA	37.32	F
GEORGIA	63.00	D	PENNSYLVANIA	34.99	F
NORTH DAKOTA	63.00	D	ILLINOIS	34.65	F
VERMONT	63.00	D	IDAHO	33.99	F
TENNESSEE	62.96	D	NEW JERSEY	24.32	F
MINNESOTA	62.30	D			
OREGON	61.00	D			
MAINE	60.00	D			

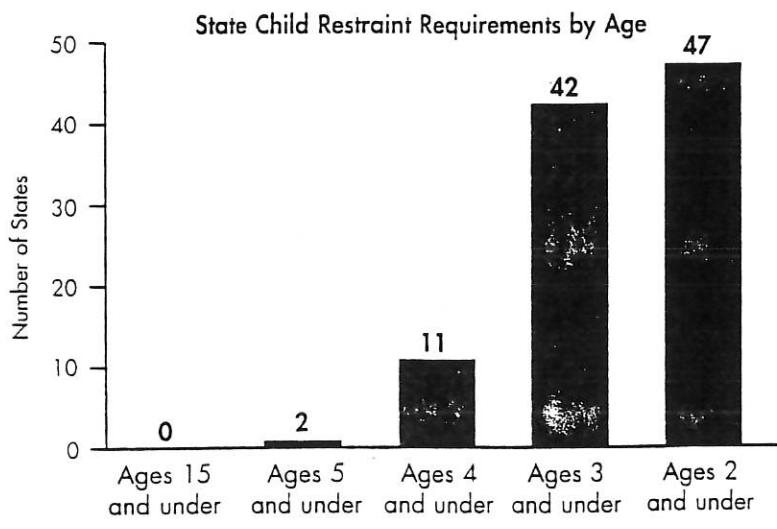


THE BAD NEWS . . .

- Nearly half of the states fail to protect our nation's children properly from their leading unintentional injury threat – motor vehicle crashes – because of inadequate child occupant protection laws.

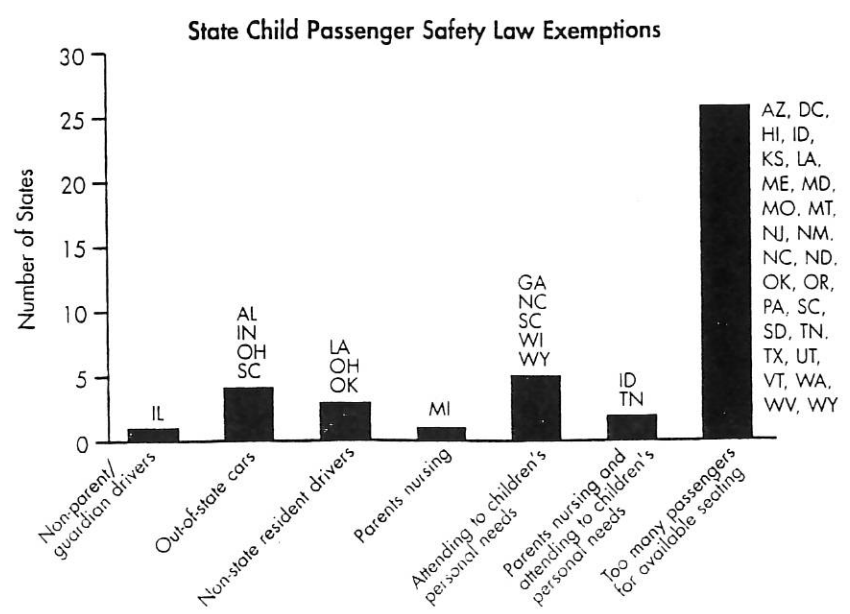


- No state fully and adequately protects all child passengers ages 15 and under.

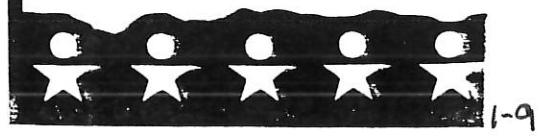


Note: 2 states protect children ages 1 and under; 1 state protects children under age 1; and 1 state protects children ages 17 mos. and under

- Most states (34) allow child passengers to ride unrestrained in certain circumstances by exempting drivers and/or other responsible parties from compliance with their child passenger safety law.



- Fines for noncompliance in 21 states are well below an amount considered to be effective (\$76 or more).
- More than half of the states (28) fail to mandate publicly funded education campaigns about child passenger safety.
- 35 state laws fail to assess penalty points on the driver's license or otherwise track violations that may result in a suspension of driving privileges.
- More than half of the states (27) allow waiver of penalties.
- 41 child occupant protection laws fail to mandate a child safety seat loaner/giveaway program.
- Nearly all state laws (47) fail to specify that the back seat is generally safer.





THE GOOD NEWS . . .

- All 50 states and the District of Columbia have passed laws that require at least some children to ride restrained; 31 states require children through age 15 to ride restrained in some manners.
- Almost all state laws (47) require that child safety seats be used properly.
- One state (CA) has proven that strong child occupant protection laws can be passed. California earned an A for its coverage of children ages 5 and under in an age- and size-appropriate child restraint in, addition to meeting almost all other criteria.
- Six state laws offer child passenger safety classes as an option or a requirement for violators.

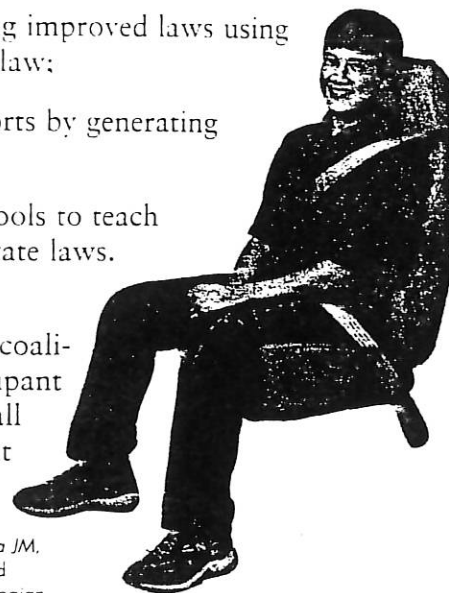
A CALL TO ACTION: CLOSING THE GAPS ACROSS THE MAP BY 2006

This rating of state child occupant protection laws clearly demonstrates that child safety needs to be a higher priority for our state legislators, governors, and citizens. Failing grades in nearly half the states should be a clarion call to those who are committed to keeping kids safe on the road.

In response, SAFE KIDS and its more than 300 coalitions are launching a five-year initiative to "close the gaps" in these laws, helping to ensure that all children are properly protected while traveling in motor vehicles. The initiative seeks to:

- ★ Identify and create awareness of the gaps and weaknesses in child occupant protection laws in the nation's 50 states and the District of Columbia;
- ★ Advocate for stronger laws and no gaps;
- ★ Educate families about how to restrain their children in motor vehicles properly and highlight differences between best practices and their states' laws;
- ★ Develop and execute a strategy for passing improved laws using the SAFE KIDS model child restraint use law;
- ★ Assist states in their law enforcement efforts by generating public support for strong enforcement;
- ★ Provide police officers with educational tools to teach them about the provisions of their own state laws.

Over the next five years, SAFE KIDS and its coalitions will vigorously monitor state child occupant protection laws with the goal that by 2006, all states will have upgraded their child occupant protection law.



Suggested citation: Ross TC, Mickalide AD, Korn AR, DiCapua KE, Colella JM, Paul HA. Child Passengers at Risk in America: A National Rating of Child Occupant Protection Laws. Washington, D.C., National SAFE KIDS Campaign, 2001. February.

KANSAS

General Statement/Composite

Kansas's child occupant protection law does not do a good job of protecting its children. It fails to restrain many of them, allowing many of its older child passengers to ride completely unbuckled in the back seat when traveling in a motor vehicle. Furthermore, Kansas does not place a legislative priority on educating its citizens about the law or about the importance of protecting children when they travel. Significantly and disturbingly, Kansas law allows a child to ride unrestrained just because other passengers are occupying all other seating positions and using the accompanying restraints. Overall, Kansas's poor showing clearly demonstrates the immediate need for the Kansas Legislature to close the gaps and otherwise improve its child occupant protection law.

Grade Breakdown

Criteria	How Kansas Fared
Restraint Use Required Through Age 15 30.29 points out of a possible 35 points	Only children ages 13 and under are required to be restrained in all seating positions. Children ages 14 and older can ride completely unrestrained in the back seat.
Appropriate Child Restraint Requirement by Age 12 points out of a possible 24 points	Only children ages 3 and under in all seating positions must be properly restrained in an appropriate child safety seat. Children ages 4 – 8 can be restrained like adults in a safety belt alone – putting them in a potentially dangerous situation.
Proper Child Safety Seat Adjustment Clause 9 points out of a possible 9 points	When Kansas does mandate child restraint use, to its credit, it requires the driver to secure both the child safety seat and the child <i>properly</i> .
Public Education/Public Fund Component 0 points out of a possible 5 points ?	Unfortunately, Kansas does not recognize the importance of legislatively mandating a public education campaign, nor does it provide public funds to offset the costs of programs that would help protect children while traveling.
Penalty Provisions 1 point out of a possible 9 points	Kansas received only 1 point for its low \$20 fine and received no points for its failure to assess license points for violations.
No Exemptions for Certain Drivers or Vehicles 0 points out of a possible 9 points	It is alarming to note that Kansas's law allows a driver to transport children without restraints if all other seating positions in the vehicle are occupied by other restrained passengers.
Other Provisions 0 points out of a possible 9 points	Kansas's law does not contain any additional provisions worthy of recognition.

Kansas's Call to Action

The National SAFE KIDS Campaign is alarmed by Kansas's grade. The Kansas Legislature should, among other things:

- Close its gap by requiring children ages 14 and older to be properly restrained in all seating positions.
- Require children ages 4 – 8 and weighing 40 – 80 pounds to use booster seats.
- Establish a child occupant protection public education program and supply sufficient funds to implement it.
- Increase its fine for violations of the child occupant protection law to more effectively deter non-compliance.
- Eliminate its "safety belt shortage" exemption.
- Consider creating a child safety seat loaner/giveaway program for families in need and establishing a child occupant protection class for violators.
- Eliminate its "proof of child safety seat purchase waiver."
- Consider adding a well-crafted back seat mandate for its child passengers.



TOPEKA

HOUSE OF
REPRESENTATIVES

SUE STORM
 REPRESENTATIVE, 22ND DISTRICT
 JOHNSON COUNTY
 8145 MACKEY
 SHAWNEE MISSION, KS 66204
 (913) 642-3121
 STATE CAPITOL—272-W
 TOPEKA, KANSAS 66612-1504
 (785) 296-7650
 (DURING SESSION: 1-800-432-3924)
 TTY 785-296-8420
 KS AREA LOCAL CALL 715-5000
 e-mail: storm@house.state.ks.us

COMMITTEE ASSIGNMENTS
 MEMBER: EDUCATION
 HIGHER EDUCATION
 HEALTH & HUMAN SERVICES
 LOCAL GOVERNMENT

February 20, 2001

**Testimony on HB2440
 Restricting the use of cellular phones
 while driving**

Mr. Chairman, members of the Committee:

Thank you for allowing me to bring this important matter before you. Before I explain why HB2440 is needed, let me briefly outline its substance.

If this bill were to become law, it would be unlawful for any person to drive on a public highway while using a hand-held cellular telephone. It would be a secondary violation, in that the driver would have to be stopped for another violation in order to be cited for cell phone use. The law would not apply to hands-free devices. The driver would have a two-minute grace period on receipt or transmission of a call to pull off the road. The law would not apply in cases of emergency or while contacting a 911 system. The fine for using a car phone while driving would be \$30.

Many, if not all, of you have access to a cellular phone in your automobile. Sales are enormous; in 1995 the number of new subscribers in the U.S. exceeded the birth rate. If cellular phone users are honest, I think they will admit that they have given themselves and their passengers at least one terrible scare resulting from phone use while driving. At the very least, they have found themselves crossing the yellow line, running a stop sign or light, tailgating—or some other behavior that would result in a ticket if a police officer were to observe it. If by chance, you have been a perfectly safe driver, I am confident you have muttered under your breath at the terrible driving of someone else who was using a phone.

Not only are we more likely to engage in risky behavior while using the phone while driving, but the risk of accident increases significantly. A very complex study published in The New England Journal of Medicine in February, 1997,

found that the risk of a collision for the same driver was four times higher when using a cellular phone than when a cellular phone was not being used. It is hard to determine how many accidents are related to cell phone use because data specific to cell phones and collisions are just now beginning to be gathered. Only five states require police to include such information in accident reports.

Growing anecdotal evidence, however, has heightened the concern nationwide, as cell phones have been suspect in numerous vehicle crashes. In 1999, a driver who was using a cell phone killed a two-year-old girl in Pennsylvania. In North Carolina, another driver, distracted by a cell phone, hit and killed a state corrections officer. Just last month, use of a cell phone was the suspected cause of a fatal crash on I-35 near my home in the KC metro area.

Since 1995, at least 37 states have proposed various types of legislation concerning cellular phones in automobiles, 27 states in 2000 alone. Only three states, California, Florida, and Massachusetts have been successful, however. Additionally, at least 10 local jurisdictions now require drivers to use hands-free devices while operating a vehicle. The rest of the world has reacted more quickly. Twenty countries now restrict or prohibit cell phone use in motor vehicles.

Our constituents want this legislation. As I have campaigned door to door in 1998 and again this past summer, restrictions on the use of cell phones while driving has been the number one suggestion for new legislation. In my district survey this winter, out of 1495 respondents, 1151, or 77%, believed there should be increased penalties when a driver is ticketed or has an accident while using a cellular phone.

Members of the Committee, this is a piece of legislation whose time has come. HB2440 would increase public awareness as to the seriousness of this issue, while penalizing those who still insist on holding a phone and driving at the same time. I realize this is a difficult issue to get a handle on. But we need to start. I would be open to amendments that you as a committee believe would be beneficial.

Does Spur Laws Against Drivers on Cell Phones

By FRANCIS X. CLINES

WASHINGTON, Feb. 17 — Mardy Burns learned the blessings of the cell phone when a stranger called for emergency help from the roadside in Kansas where her 18-year-old daughter, Sara, was in a car wreck.

But Mrs. Burns soon learned the curse of the cell phone, too. She said that investigators found that the driver of the wrecked car, who survived, had been distracted while on his phone and crashed, killing Sara and her boyfriend.

"A useless phone call killed my child," Mrs. Burns, who lives in Independence, Mo., said this week of the 1997 accident. "The driver was talking with some girl on the phone. Nothing of any importance. My older daughter, Vera, was at the scene and found the phone in the wreckage. It was still on."

With pained survivors like Mrs. Burns organizing a new safe-driving crusade, more lawmakers across the nation are submitting proposals for controls or outright bans on the use of cell phones while driving. At least 11 such laws have been enacted by local governments, but none statewide as lobbyists from the booming cell-phone industry lead the opposition.

But the movement for controls is growing, with bills submitted in the legislatures of 35 states, more than doubling in two years, for phone restrictions and penalties for derelict drivers. Proponents, including Advocates for Cell Phone Safety, a new group of family members of victims of auto accidents from phone use, point to the 22 nations that have already enacted cell-phone restrictions on drivers. These range from a mandate against hand-held phones to an outright ban on the use of all types of cell phones by drivers in Japan, Israel, Portugal and Singapore.

Critics have also been encouraged by selective restraints, from the cell-phone ban on New York City taxi drivers to one on school bus drivers in Massachusetts, the first such statewide step.

"With all the new technology that's going out on the road and polls showing most people supporting restrictions, you can definitely foresee some kind of limitations passing eventually," said Matt Sundeen, a transportation specialist with the National Conference of State Legislatures, a neutral study group. "Probably a compromise of some sort, I'd guess, but not an outright prohibition because this technology is not going to go away."

Mr. Sundeen spoke of the \$40 bil-

A cell phone can be a blessing to a stalled driver and a curse to a distracted driver.

lion telematics industry's mushrooming array of in-vehicle products, including laptops, navigation equipment, e-mail communications and fax machines. There is even a proposed voice-only stock quotations, which would sound across a driver's business day.

Surveys suggest that 70 percent of cell phone calls involve drivers, a use that has General Motors, among others, making plans to create elaborate new mobile phone services.

Cell-phone users grow by three million each month. And 85 percent of the nation's 110 million cell-phone owners use them in some form while driving, according to a survey by the National Highway Transportation Safety Administration, which is conducting a new study of the mix of high-tech blessings and risks from phoning behind the wheel.

Safety research seems lagging behind the industry's rapid growth. Recent studies have found that using phones while driving increased the risk of an accident by more than 30 percent, but the industry disputes this, citing studies that minimize the risk. Industry pamphlets typically advise against the use of hand-held phones while driving, but critics say this does nothing about the mental distraction of phoning and the law should require drivers to park. That is why they say the hands-free, voice-activated phone systems do not deal with the primary problem, preoccupation.

"It's not where your eyes are, it's where your head is," said Frances Bents, a traffic safety consultant with Dynamic Science Inc., in Annapolis, Md. Ms. Bents stressed the mental preoccupation of phone calls to rebut industry arguments that cell phones are no worse than an array of driver distractions, from eating to radio tuning.

The Cellular Telecommunications Industry Association, with 570 members and 95 percent of the industry, recommends deeper research on driving and phone conversation, enforcement of existing reckless driving laws and an overall emphasis on driver education, not legal restriction, as the best form of cell-phone safety.

But accident data from Japan is cited by Advocates for Cell Phone Safety, founded by Patricia Pena, a Pennsylvania mother whose 2-year-old daughter was killed, she said, when a driver raced through a traffic signal while on a cell phone. Japan enacted a hands-free mandate on cell phone drivers in 1996 and the police later reported a 52 percent drop in injuries and accidents caused by those drivers. Encouraged, Japan then toughened the law to an outright ban on car phones.

The industry cites a study done last year for AT&T by the Harvard Center for Risk Analysis that concluded there were risks but they were small and that far more exhaustive research was needed.

'A useless phone call killed my child,' a mother says of a chatting driver.

Ms. Bents, the traffic safety consultant, extrapolates that study's estimate of 1.5 annual fatalities per million citizens from cell-phone traffic accidents — less than a tenth of the toll from drinking and driving — to conclude that 600 fatalities or more may occur annually from such accidents.

"Where's the hew and cry?" she asks, noting that recent scandals over air bag and tire failures on sports utility vehicles killed fewer than 200 each but drew national headlines.

An elaborate study this month by the University of Montreal's Transportation Safety Laboratory concluded that cell-phone users had a 38 percent higher risk of accident and that the risk increased with the frequency of phone calls. The study, by Dr. Claire Laberge-Nadeau, is one of the most thorough in correlating questionnaire answers and the actual phone and accident records of 36,000 cooperating people. One male out of three and one female out of two said that cell-phone use significantly interfered with their driving. Only 3 percent said that radio listening or chatting with passengers presented a comparable risk.

But lawmakers say the growing proposals for restrictions on cell-phone use are rooted not in research so much as in anecdotal evidence from constituents alarmed at weaving, erratic drivers transfixed on the phone. "I'm getting 10 to 15 complaints a week from constituents," said John Arnick, a Maryland legislative delegate and Baltimore County Democrat who wants to allow only hands-free phoning. "My people tell of being cut off by drivers oblivious on the phone. Everyone has a story about these guys."

Mr. Arnick's bill is foundering in the face of industry opposition, he noted. "But I think there's something inevitable about this issue and some industry types are coming around," Mr. Arnick said. He noted, for example, that a specialist with the Verizon cell phone program told him he might endorse the bill if its effective date was extended enough to allow drivers to prepare.

In a new policy statement this week, the National Safety Council urged drivers to voluntarily not use electronic devices on the road. While emphasizing driver responsibility and the enforcement of existing laws, the council did not support legal restrictions on phones except for a ban on their use by 16-to-18-year-old driver-trainees, the most accident prone category.

"I don't do cell phoning in the car any more and I'm a 2,000-minutes-a-month cell-phone user," Chuck Hurlley, executive director of the council's highway safety group, admitted. "I know cell phones have become an essential part of the nomadic life we all lead. But the risks are real and the principal risk is cognitive, when you're trying to talk to someone you can't see and so you tend to concentrate twice as hard on the conversation."

But the safety expert said he was reluctant to burden the police with another sweeping traffic ban "without the public and political support it would take to be successful."

LETTER OF TESTIMONY

Delivered before the Kansas Legislature
Tuesday, February 20th, 2001

By Topeka Police Officers
Corporal Jeffrey Alan Whisler
James Darin Scott

As Law Enforcement Officers, we are observing an ever increasing number of motorists diverting their full attention from the safe operation of their vehicles to the usage of cellular telephones. Cellular telephone use is very common and when used safely, can be an essential tool for communicating, but not driving.

Our encounters with motorists using cellular phones while driving, have ranged from speed violations to signal light violations. These encounters are believed to have been contributed by drivers being too involved in their phone conversations, rather than giving full attention to the operation of their motor vehicles. These and many other hazardous moving violations while using cellular phones are growing to epidemic proportions.

Although the State of Kansas does not have any measures in place to accumulate raw data on how cellular telephone use affects driving habits and vehicle operation, it can be compared to other attention dividing tasks which take place (i.e. changing a radio station, changing a compact disc, adjusting occupant comfort controls). Some may argue there are greater hazards such as putting on make up or reading the morning paper. The major difference is there exists no method to compare or measure these attention dividing tasks to the actual intensity of a cellular telephone conversation.

Inattention is the main reason for poor driving behavior. Lane drifting, lane weaving and failure to negotiate heavy traffic are amplified with cellular telephone use. When a drivers' attention is divided between a cellular telephone conversation and driving, the driver's ability to adapt to the ever changing environment is greatly reduced. In many instances, drivers are completely unaware of the ambulance responding to a call for medical assistance, the fire truck rushing to save a burning house or the law enforcement officer trying to get to a life threatening call. When at last, the cellular phone user realizes the presence of the emergency vehicle their reaction is very unpredictable. Typically, a frightened, hurried response on the part of the cellular telephone user is observed by the emergency responders, sometimes with hazardous results as they slam on their brakes or swerve to another lane without looking.

Law Enforcement Officers are finding persons using cell phones take longer to pull over when being stopped for violations. This in itself can be hazardous to the officer and other drivers in the area. One such instance observed by Officer Scott involved two vehicles speeding at the same location, one approximately three car lengths in front of the other. Both were traveling at the same speed. The first driver was on a cell phone. The second was not. Officer Scott attempted to stop both vehicles from his police motorcycle by activating his emergency lights and siren. Once behind the two violators, the driver not engaged in a cellular telephone conversation responded immediately by pulling over to the right side of the road. The first driver, who was involved in a cellular telephone conversation, did not respond to Officer Scott's motorcycle in emergency response mode. Officer Scott traveled over 1500 feet before pulling alongside the first drivers' car to finally get the drivers attention. Officer Scott then physically motioned the driver to pull over and stop. During the encounter, other traffic, both oncoming and same direction were pulling over for the emergency vehicle. Furthermore, the driver hindered the encounter by continuing the cellular phone conversation throughout Officer Scott's contact with the driver.

We in the Law Enforcement community are always looking to define the nature and magnitude of any potential traffic safety problems and assist the public through education and when necessary, enforcement. Public Safety is paramount. It is our observation that inattentive driving is on the increase due to persons using cellular phones while driving. We recognize cellular telephone use can be beneficial and even essential through proper and safe use.

The Topeka Police Department supports legislation that promotes safe cellular telephone usage and safe driving habits.

House Transportation Committee
February 20, 2001
Attachment 3

Testimony before the
House Transportation Committee
on behalf of
Verizon Wireless

Mister Chairman, and members of the committee, my name is Jim Yonally, and I am appearing today on behalf of Verizon Wireless, the nation's largest wireless telephone service provider.

Verizon Wireless prides itself as a leader in advocating responsible use of wireless phones while driving. We promote the use of hands-free devices in every facet of our business from marketing and sales to our customer communications and public policy initiatives. As part of our nation-wide program in this regard, we are offering affordable hands-free devices at dramatically reduced prices.

With our customers' safety our primary concern, we are prepared to support, in any state, hands-free legislation that meets the following conditions:

1. It must recognize the safety value of wireless devices. (HB 2440 does that)
2. It must explicitly exempt emergency calls. (HB 2440 does that)
3. It must be uniform across the entire state. (HB 2440 is)
4. It must assess penalties no greater than for current careless driving infractions (Not sure whether HB 2440 does that, or not)
5. It needs to have a three-year "phase-in" period. This is necessary because not all wireless phones currently in use by Kansas consumers are compatible with hands-free headsets. This period would allow consumers to upgrade their handsets to ensure hands-free capability. In addition, handset manufacturers need research and development time to make hands-free capability more widely available at a lower price. (HB 2440, as now drafted, does NOT provide this)

Mr. Chairman, Verizon Wireless is proud to be the industry leader on important issues related to responsible driving. We are equally proud to be the first in the industry to stand up to announce our support of appropriate statewide hands-free legislation.

Thank you for this opportunity to present our views, and I would stand for questions.



Testimony In Opposition To HB 2440

John J. Federico, J.D./Federico Consulting

On Behalf Of

General Motors

House Transportation Committee

February 20, 2001

Thank you for the opportunity to appear before your Committee in “guarded” opposition to the current version of HB 2440. I appear today on behalf of General Motors and we oppose this bill because although we feel that legislative oversight of certain “driver distractions” is warranted, HB 2440 and the restrictions therein are not the correct approach to solving this particular problem.

General Motors has a long history of interest in legislation related to driver distractions. In 1913 it was mechanical windshield wipers and whether their “rhythmic motion” would distract drivers and lull them into a trance-like state. Or in 1930 when two states unsuccessfully tried to ban radios in automobiles because it was thought that they would be too distracting to drivers.

Today, much of the focus is on the increased use of hand held cellular phones while driving. General Motors, like others, have a keen interest in this issue and supports a common-sense approach that combines technology, research, and most importantly, education. GM has unveiled the “SenseAble Driving” campaign. This multi-million dollar initiative seeks to raise driver awareness about the dangers posed by all distractions, and promote a better understanding of how to alleviate driver distractions. GM feels strongly that this approach is the better solution to increased vehicle safety, when compared to overly restrictive legislation.

Of particular importance to General Motors is the potential for HB 2440 to negatively impact its wildly popular OnStar program. GM’s OnStar product is available in 32 of GM’s 54 brands and will be available on an estimated 1 million GM vehicles by the end of 2001. OnStar is a safety, security and information system that combines hands-free cellular phones with satellite uplinks and military technology (that was once classified). OnStar has been used to assist subscribers in everything from emergency

815 SW Topeka Blvd Second Floor Topeka, KS 66612-1608

Office (785) 232-2557

Fax (785) 232-1703

Pager (785) 887-487
House Transportation Committee
February 20, 2001
Attachment 5

services to tracking stolen vehicles; getting doors opened when keys are accidentally locked inside; finding the nearest ATM machine; guiding drivers to the local zoo or gasoline station; and even arranging dinner reservations. Further, if the OnStar-equipped vehicle is in a crash that deploys an airbag, the car itself is automatically contacted by OnStar attendants and if no response is heard, medical assistance is automatically dispatched. OnStar is currently responding to over 120 airbag deployments a month!

Of specific concern to GM is the reference in HB 2440 to the restriction on page 1, line 17, of *cellular car telephones*. Although the bill attempts to exclude *speakerphones* from the provisions of the bill, it is unclear whether that would include users of the OnStar system. Our confusion and concern stems from the fact that the OnStar system uses cellular phone technology as part of its Personal Calling system, and although it utilizes a speaker phone, it does require limited use of the hands. (See page 1, line 32-34).

Again, we are supportive of the rationale behind limiting driver distractions, but are concerned about how legislation such as HB 2440 would stifle the use of a product such as OnStar. A product that provides numerous tangible, even life-saving benefits while limiting the distractions during its operation and use.

Thank you for your time and consideration. I will be happy to stand for questions.



John J. Federico, J.D.
Federico Consulting
On Behalf Of General Motors

MIKE REECHT

GOVERNMENT AFFAIRS CONSULTANT

SMOOT & ASSOCIATES
800 SW JACKSON, SUITE 808
TOPEKA, KANSAS 66612
(785) 233-0016
(785) 234-3687 (fax)

10200 STATE LINE ROAD
SUITE 230
LEAWOOD, KANSAS 66206
(913) 649-6836

Testimony of Mike Reecht
On Behalf of AT&T
Before the House Transportation Committee
Regarding HB 2440

February 20, 2001

Mr. Chairman and Members of the Committee,

My name is Mike Reecht and I appear before you today on behalf of AT&T in opposition to HB 2440.

AT&T supports the industry educational effort promoting the responsible use of cellular telephones while driving. You may have heard the commercials advocating safety first tips when using your cellular phone in your car. While we support the safe operation of a cellular phone, legislation is not the answer to insure its effectiveness.

The mere operation or use of the cellular phone while driving does not create any greater hazard than unwrapping your Wendys "with everything" burger, lighting the wrong end of your filter tip cigarette or reading the latest financial news. In fact, I contend the other three may indeed be more hazardous.

If any of those actions, including cellular phone use, cause a driver to cross the center line, cut another car off in traffic, violate the speeding laws or create any other unsafe traffic condition, I contend that existing statutes would allow a law enforcement officer to cite the driver under Chapter 8-1566 -- Reckless Driving. The statute states: "Any person who drives any vehicle in a willful or wanton disregard for the safety of persons or property is guilty of reckless driving." To single out only one potential cause in statute of a driver becoming distracted/reckless misses the point. The point should be while one is driving, stay focused on the road. It really should not matter what the cause of the inattention is, a law enforcement officer should, and I believe does, have the flexibility to stop the vehicle if it is creating a reckless situation.

I have attached a copy of an editorial from the Johnson County Sun newspaper dated November 24, 2000 to my testimony.

In closing, I would quote from that article, specifically the last two sentences: "Let's educate the public on making safe cell phone choices. Let's not have one more example of too much government encroaching on our choices."

Thank you and I would be glad to answer any questions that you might have.

House Transportation Committee
February 20, 2001
Attachment 6

Cell phone threat not enough to need legislation

Not long ago, three people in Marlboro, N.J., were killed in an automobile accident when a mother who was driving turned around to correct her children in the back seat.

Did the state of New Jersey, in the wake of that awful accident, promptly pass legislation forcing parent drivers to bring along a babysitter to keep the kids in line? Of course not.

What has been a hot legislative topic in New Jersey for some time now is the issue of banning drivers from using hand-held cell phones. Based on the Talk Back calls we receive at the Sun, more than a few readers would like to see Kansas lawmakers bring that issue to the table.

Common sense tells us that driving up Metcalf Avenue in rush hour traffic while taking the kid's McDonald's order on the cell phone is irresponsible and reckless. It is a threat to everyone who shares the road. Is it a threat worth slapping yet another unenforceable law on the books? Absolutely not.

Is talking on a cell phone any more dangerous than eating a Big Mac or searching your CD case for the right tunes while driving? Or how about the woman putting on makeup in the rear-view mirror? Pretty perilous, but do we pass a law prohibiting applying makeup while driving?

Some would argue that cell phones are safer than smoking or drinking coffee while driving. If a sudden two-handed turn becomes necessary, isn't a driver far more likely to drop that cell phone than a lit cigarette or piping hot cup of java? And let's not forget that cell phones in cars have saved more than a few lives when used to call for emergency care.

Sure, we can require cell phones to be hands-free. But the cost of speakers and mounts for a hands-free setup can run into the hundreds of dollars ... all to mount a \$30 phone?

Let's hope that should legislators in Topeka take up the cell phone issue anytime soon, they'll do the right thing. Let's educate the public on making safe cell phone choices. Let's not have one more example of too much government encroaching on our choices.

Testimony in opposition to HB 2440

**House Transportation Committee
February 20, 2001**

My name is Steve Kearney, representing ALLTEL.

I am testifying today in opposition to HB 2440. ALLTEL certainly does not question the sincerity or the concern for public safety of the members who introduced this bill or the citizens who have testified in support. We take very seriously the misuse of wireless phones while driving, and feel that those who drive inattentively or recklessly while using a wireless phone should absolutely be ticketed and prosecuted accordingly. But of course, that is the main thrust of our opposition. Why address this issue with more legislation, when we have laws on the books today that do so?

If penalties for inattentive and reckless driving are not serving as a sufficient deterrent, strengthen them by raising the fines and/or increasing the number of driver's license points that are taken away upon prosecution. ALLTEL would support such efforts, but cannot support the piecemeal targeting of certain items that might distract drivers. This is not only an ineffective approach to the issue, but it also penalizes those who use their wireless phones with great care and who do not allow phone use to interfere with their driving.

Some will maintain that Section (e) of the bill makes it more acceptable, because wireless phone use is only a secondary offense. We do not feel that this is a selling point, however. We are puzzled as to why running a stop sign, cross the center line, or speeding would be considered any more or less offensive by the use of a wireless phone. These are actions that put others in danger whether a phone is involved or not. Again, if you want to stiffen the penalties for these offenses, we will support that. But we cannot support the specific targeting of wireless phones that is included in this legislation.

Section (3) might also seem to make the bill more reasonable, but we disagree. Carving out an exemption for 911 calls looks good on the surface, but actually confirms the misguided nature of the bill. A 911 caller has just witnessed a crime, an accident, or some other extraordinary incident. That caller is likely to be rattled, nervous, and distracted, and will need to provide accurate and complete information to the 911 operator. If there is ever an appropriate time to pull over before making a call, this would be it.

The 911 exemption, the secondary offense provision, and the two-minute grace period on incoming calls are all well-intentioned efforts to make this bill more acceptable to wireless phone users. On behalf of our customers, ALLTEL appreciates the intent of

House Transportation Committee
February 20, 2001
Attachment 7

these provisions. But these aspects of HB 2440 only show how misguided and unworkable the bill really is. They strengthen our argument that legislation specifically targeting wireless phones is neither enforceable nor effective. The focus needs to be on inattentive driving, reckless driving, and other traffic violations. These existing laws need to be better enforced and strengthened with tougher penalties. ALLTEL asks that you re-focus the bill in that direction. If that is not possible, please vote HB 2440 down in its entirety. Thank you.

Testimony in opposition to HB 2440 to the
House Transportation Committee
February 20, 2001
by Nelson Krueger, representing Western Wireless

On behalf of Western Wireless, I am testifying today in opposition to HB 2440. Western Wireless does not question the concern for public safety and good intentions of the members who introduced this legislation. Like many others, Western Wireless is very concerned about the misuse of wireless phones by drivers and feels strongly that those who drive inattentively or recklessly while using a wireless phone or not should be prosecuted. In fact, enforcement of existing law is the key element of our opposition to HB 2440. Western Wireless does not believe additional, device-targeted laws are necessary, nor would they make the roads safer.

First, Western Wireless shares the views of others that if penalties for inattentive and reckless driving are not doing the job, then those penalties should be strengthened by increasing enforcement, fines, and the number of "points" applied to drivers' licenses and insurance rates upon conviction.

Western Wireless also objects to the development of a list of "driver distracting" items, the use of which while driving may be a civil or criminal offense. Western Wireless does not believe this is an effective approach not only because it penalizes those who properly use their wireless phones, but also because it would create confusing enforcement problems. Would dictation machines, CD players, cigarettes, newspapers, nail files, lip stick and "Kleenex" also be on the list?

Third, as for Section (e) making this bill more acceptable because use of a wireless phone would only be a secondary offense, Western does not believe this makes the bill more palatable. It certainly does not make it more effective. Why would running a stop sign, crossing the center line, or speeding be any more or less offensive by using a wireless phone?

Fourth, Western Wireless would dispute that requiring wireless phone users to stop on the side of the road would make the roads safer. To the contrary, drivers making or receiving calls suddenly looking for a spot to pull over are more likely to create increased confusion and additional hazards.

In closing, Western Wireless opposes HB 2440 because laws already exist aimed at reckless and inattentive driving, no matter what the cause. Development of a prosecutable list of "hazardous driving devices or activities" is unnecessary, unenforceable, and would add to the ever-growing heap of lawsuit magnets. The requirement to pull to a stop on the side of the road would not insure safe driving, but rather would create more road hazards and erratic driving. With a focus on safe driving and enforcement of existing laws, our ever-advancing technology companies will increase availability of products that are "safe-driver friendly." It is simply not necessary to bog down our statute books with a confusing, cumbersome, and unenforceable law that would create at least as much havoc as it is purported to solve. Western Wireless asks you to oppose HB 2440.



Before the House Transportation Committee
Tuesday, February 20, 2001
HB 2440

Mike Murray, Director of Governmental Affairs

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to comment on HB 2440 which Sprint opposes.

Sprint PCS believes that **education** is the key to safe driving and use of a wireless telephone. Educational materials published by the Cellular Telephone Industry Association and distributed by Sprint PCS and other carriers urge wireless customers to adhere to these guidelines:

*Keep you calls brief. *Get to know your wireless phone and its features such as speed dial and redial. *When available use a hands free device. *Position you wireless phone within easy reach. *Suspend conversations during hazardous driving conditions or situations. *Don't take notes or look up phone numbers while driving. *Dial sensibly; assess the traffic; place calls when you're not moving or before pulling into traffic. *Don't engage in stressful or emotional conversations. *Use your phone to help yourself and others.

In 2000, the **Harvard Center for Risk Analysis study entitled Cellular Phones and Driving: Weighing the Risks and Benefits**, concluded that public education programs should be implemented to encourage the selective and prudent use of cellular phones while driving.

A **1997 University of Toronto Study—the Association between Cellular-Telephone Calls and Motor Vehicle Collisions**--published in the New England Journal of Medicine, concluded that individuals should be responsible for avoiding unnecessary phone calls, keeping conversations brief and suspending calls when driving conditions become hazardous. The study also suggested that education for all driver distractions not just cellular phones and the strict enforcement of current laws were effective means of promoting highway safety.

Also in 1997, the **California Highway Patrol's study of the "Effects of Cellular Telephone Use on Driver Behavior"** said the CHP believes it is the industry's responsibility to take the lead in developing public education programs aimed at encouraging their clients to use their cellular telephones in a responsible manner. It concluded that "education should be a key component in any effort to reduce the risk of traffic collisions resulting from cellular telephone use, and could prove to be more effective than sanctions. "

Additional Data Collection. Sprint PCS encourages all law enforcement agencies to collect accident data on any in-vehicle distraction. According to the CTIA, 12 states

House Transportation Committee
February 20, 2001
Attachment 9

collect such information, but only three states--Oklahoma, Minnesota and Tennessee--have been collecting data long enough to have issued reports. In 1998, the **Oklahoma Highway Safety Office** said that of the 80,376 crashes reported only 98, or one-tenth of one percent, were related to phones. For **Minnesota**, in 1999 crashes totaled 96,813 and in only 50 accidents (five hundredths of one percent) was a CB or cellular phone cited as a factor. In 1999, the **Tennessee Highway Patrol** investigated 30,994 accidents of which 48 (or less than two tenths of one percent) involved the use of a wireless phone or CB radio.

The **National Highway Traffic Safety Administration Fatal Accident Reporting System** says that of the 41,611 fatal accidents in 1999, only 54 (a little more than one tenth of one percent) listed wireless phone use as a "driver related factor."

Enforce Existing Laws. Kansas already has a reckless driving statute, and the wireless industry supports the strict enforcement of laws against reckless and irresponsible drivers.

There are many driving distractions. Tuning the radio, drinking a beverage, changing cassette tapes and CDs, tending to kids or pets, eating a hamburger, lighting a cigarette, getting something from the glove box, reading a map or a newspaper, putting on make-up, and talking on a wireless phone.

According to the **Response Insurance National Driving Habits Survey** more than three-quarters of all drivers engaged in at least one driving distraction. Of the 1,016 telephone interviews conducted 62% listed tuning a radio station as the worst driving distraction, 57% eating, 56% turning head around to speak, 44% reaching for something, 32% reading, 32% using the glove compartment, and 29% talking on a wireless phone. It is important to note that the only potential distraction that could possibly save your life is the use of a wireless phone.

In 1995, **Prevention Magazine** measured the incidence of ten potentially distracting activities. 64% of those surveyed said they diverted their attention from driving when reaching to change a cassette tape or CD. Only 18% said they talked on a mobile phone while driving.

Also in 1995, a survey conducted by **Honolulu law enforcement officials at the request of the Hawaii Legislature** found that cellular telephones were less hazardous than common non-technology related distractions such as noisy children, unrestrained pets and smoking while at the wheel.

In a fairly all encompassing study, the **National Highway Transportation Safety Administration** in 1997 in its study entitled "**An Investigation of the Safety Implications of Wireless Communications in Vehicles**" concluded that states should continue and improve data collection and reporting, that there should be greater consumer education, that there will be continued advancements in technology, and states should be encouraged to enforce current reckless and inattentive driving statutes.

What's in the future? This bill exempts from its provisions the use of a voice-activated speaker phone. The industry is heading in the direction of voice activated phones, but everyone is not there yet. As for Sprint PCS, all handsets launched since 1999 support a hands-free headset of some kind. And, in September of last year, Sprint PCS introduced a network-based voice activation service that allows all Sprint PCS customers to voice operate their phones should they choose to do so.

Conclusion. While there is much data to support the notion that wireless phones are not major causes of or contributors to traffic accidents over and above other driver distractions, HB 2440 singles out use of a wireless phone use for penalty. We believe the provisions of such a bill are quite unenforceable, and increase the risk of more traffic accidents by requiring drivers to pull over within two minutes of initiating or receiving a call. And, such legislation is premature. The industry is conducting massive consumer education programs, the collection of statistical data is in its infancy, and there are enough laws on the books now to deal with dangerous drivers.

Respectfully, we urge the Committee to reject HB 2440.



Driver's Safety Effort



Driver's safety promotion is a principal element of Sprint's sales effort.

- Sprint PCS and RadioShack stores generally display flyers and 28"x 22" posters promoting responsible wireless use.
- Sprint PCS stores often have a safety exhibit where customers may test-drive hands-free accessories.
- Sprint PCS sales representatives have covered safety issues with every one of the 2,648,200 new customers thus far in 2000.
- Contracts have a checkbox for consumers to fill in to track whether representatives are reviewing safety issues with the customer.

Sprint maintains a comprehensive line of hands-free products and services.

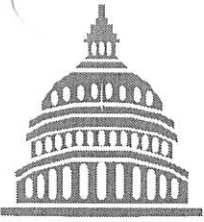
- Driving Safety Tips and advice on safety features are included in product manuals.
- Ear-mikes, headsets, and hands-free car kits are available at our web-site and every Sprint PCS and RadioShack store.
- All handsets launched since 1999 support a hands-free headset.
- Currently, three handsets support voice activation and the market is increasingly demanding voice activation as a necessity.
- In September, Sprint PCS introduced a network-based voice activation service that will allow all 6 million Sprint PCS customers to voice operate their phones.

Sprint PCS aims to lead the industry in raising public awareness of wireless safety issues.

- Statewide partnerships with high school education programs heighten awareness of safety issues.
- Statewide partnerships with DMVs bring safety materials to new and renewing drivers.
- Collaboration with seatbelt and car seat campaigns reach many drivers concerned with safety.
- Patrol officers were supplied with driver safety cards to distribute to drivers.
- Public service announcements and media coverage raise public awareness of wireless safety. During the annual Wireless Safety Week, the effort by Sprint PCS produced;
 - 769 radio broadcasts reaching 7.4 million listeners,
 - 75 television broadcasts in 34 local markets,
 - 41 print articles on events surrounding the Wireless Safety Week effort.

Sprint PCS continually works to promote responsible wireless use among its customers.

- Sprint and Samsung gave away 141,000 ear-mikes to customers during Wireless Safety Week.
- Safety messages appear in every customer invoice.
- Quarterly invoice inserts offer customers advice on driver safety.
- Customer magazine to all 6 million PCS customers features a segment on driver safety.
- Web-site contains special section devoted to driver safety. The section includes safety tips, advice on hands-free accessories and advice on maximizing the safety benefits provided by the Wireless Web, the RoadSide Assistance program and 911.



Gaches, Braden, Barbee & Associates

Governmental Affairs & Association Management

300 SW EIGHTH • THIRD FLOOR • TOPEKA, KANSAS 66603-3912 • 785-233-4512 • FAX 785-233-2206

**Testimony of Sandy Braden
Gaches, Braden, Barbee and Associates**

On behalf of the Cingular Wireless

**Regarding House Bill 2440
Restricting Use of Cellular Telephones while Driving**

**Submitted to the House Transportation Committee
Tuesday, February 20, 2001**

House Transportation Committee
February 20, 2001
Attachment 10

**Testimony of Sandy Braden
Gaches, Braden, Barbee and Associates
On Behalf of Cingular Wireless
In Opposition of House Bill 2440
Tuesday, February 20, 2001**

Thank you, Chairman Hayzlett, for this opportunity to appear before your Committee in opposition to House Bill 2440. I am Sandy Braden with Gaches, Braden, Barbee and Associates, testifying on behalf of Cingular Wireless.

Cingular Wireless, formerly Southwestern Bell Wireless, is a joint venture of SBC Communications and BellSouth. Cingular operates in 38 states, Washington D.C., and two U.S. territories, serving more than 20 million customers.

Today, motorists face many distractions that can compete for their attention while behind the wheel. These range from the CD players, GPS systems, palm pilots and other electronic gadgets – to a fast-food burger and fries, the morning newspaper, children in the back seat, make-up and electric razors. Present research indicates driver inattention is a contributing factor in over 50% of all accidents.

Current data from four states indicates that wireless communication is a small part of the broader problem of driver distraction. According to studies in Tennessee, Oklahoma, Minnesota, and Pennsylvania, states that have been tracking this data long enough to report it, wireless phone usage represents less than one-half of one percent of driver distraction accidents.

The National Highway Traffic Safety Administration Fatal Accident Reporting System says that of the 41,611 fatal accidents reported in 1999, wireless phone usage was cited in 54 accidents, a little more than one tenth of one percent. An overwhelming majority of independent studies and reports that have looked at the issue of wireless phone use and driver inattention recommend that education is the key to increasing responsible and attentive driving.

Cingular Wireless takes the issue of safe driving very seriously. Since 1985, we have been a leader in educating consumers about safe wireless phone use. We continue to communicate safe wireless phone use to our customers through bill inserts, sales materials, mass media advertising, new customer information kits, customer newsletters, billing envelopes, websites, and a safety reminder appears on customers' phones when they turn on their set.

Cingular Wireless's position on HB2440 is that it is inappropriate to pass a law that would focus only on wireless phones and not take into account other potential distractions. Wireless phone usage is the only potential driver distraction that could possibly save a life. Everyday, 120,000 calls are placed to 9-1-1 from wireless phones, helping reduce response times in emergency situations and assisting in the apprehension of drunk, impaired and aggressive drivers. The benefits of owning and using wireless phones can't be overlooked.

Kansas already has a reckless driving statute, and Cingular Wireless supports the strict enforcement of laws against reckless and irresponsible drivers.

Cingular Wireless also is concerned that the two-minute grace period could have a negative effect on public safety as drivers repeatedly check their watches to determine the length of the call.

Cingular is supportive of the hands-free option for cellular phones and we routinely offer discounts toward the purchase of hands-free devices. However, not all telephones can be adapted to the hands-free option at this time.

While there is little hard data to support the contention that wireless phones contribute to traffic accidents more than any other driver distraction, HB2440 targets only the use of wireless phones for penalty. Cingular respectfully asks that you oppose HB2440.

Again, Cingular Wireless cares about its wireless customers and their safety, as well as the safety of others, and the company is committed to promoting safe driving and educating customers on the proper use of wireless phones while driving.