

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman John Edmonds at 1:30P.M. on March 29, 2006 in Room 313-S of the Capitol.

All members were present except:

Representative Don Dahl- excused  
Representative Broderick Henderson- excused  
Representative Lance Kinzer- excused  
Representative Judy Loganbill- excused  
Representative Candy Ruff- excused  
Representative Kenny Wilk- excused

Committee staff present:

Athena Andaya, Kansas Legislative Research Department  
Mary Torrence, Revisor of Statutes Office  
Carol Doel, Committee Secretary

Conferees:

Senator Donald Betts  
Danielle Dempsey-Swopes, Executive Director African American Affairs

Others attending:

See attached list

Chairman Edmonds opened the floor for bill introduction. There were none, and the Chairman opened the meeting for public hearing on **SB 486** - Governor's Task Force on Racial Profiling extended until 2012.

Senator Betts spoke to the committee to convey his support of **SB 486**. The Senator explained that the bill would continue the work of the Governor's Task Force on Racial Profiling by extending its existence to 2012. He strongly requested consideration of **SB 486** and that it be passed out of committee with a recommendation to adopt. (Attachment 1)

Danielle Dempsey-Swopes, Executive Director of Kansas African Affairs Commission, presented testimony supporting **SB 486**. Ms. Dempsey-Swopes presented the recommendations to prevent racial profiling as presented by the Task Force in their report of October 2005. She further explained that this bill outlines the method for retaining the current task force for an extended period to fully implement the recommendations as presented. (Attachment 2) Ms. Dempsey-Swopes also provided copies of the Report and Recommendations of the Governor's Task Force on Racial Profiling for committee review. (Attachment 3)

Kyle Smith, Deputy Director of the Kansas Bureau of Investigation (KBI), and the Legislative Chair for the Police Officers Association came before the committee to let them know that the Association supports **SB 486**. (No Written Testimony)

Kelly Parks, President of the Kansas Association of Chiefs of Police (KACP) related to the committee that the KCB supports **HB 486** as it is currently written, however, the would have concerns about having data collections in the bill. (No Written Testimony)

Written testimony regarding **SB 486** was provided by Kansas Human Rights Commission (Attachment 4) and Ed Klumpp, Chief of Police, Retired, Topeka Police Department (Attachment 5).

With no other person wishing to address **SB 486** the Chairman closed the public hearing.

Chairman Edmonds directed the committee's attention to **HB 2955** - regarding flavored malt beverages.

Tuck Duncan, Kansas Wine & Spirits Wholesalers Association, Neal Whitaker, Kansas Beer Wholesalers Association, Amy Campbell, Kansas Beverage Retailers Association, and Phil Bradley, Kansas Licensed Beverage Association provided a memorandum for the committee regarding **HB 2955**. This memorandum requested favorable passage of the bill. It also related that the bill does need an amendment. (Attachment 6)

CONTINUATION SHEET

MINUTES OF THE House Federal and State Affairs Committee at 1:30 P.M. on March 29, 2006 in Room 313-S of the Capitol.

Mary Torrence, Office of the Revisor, provided a copy of the amendment to **HB 2955**. (Attachment 7)

Representative Burroughs made a motion to adopt the amendment to **HB 2955**. Representative Siegfried seconded the motion. Motion passed. Bill was amended.

Representative Burroughs made a motion to pass **HB 2955** as amended favorable for passage. Representative Siegfried seconded the motion. Motion passed.

With no further business before the committee, the meeting was adjourned.



DONALD BETTS JR.

SENATOR, 29TH DISTRICT  
SEDGWICK COUNTYSTATE CAPITOL BUILDING  
ROOM 404-N  
TOPEKA, KANSAS 66612-1504

(785) 296-7387 • 1-800-432-3924

1755 N. MADISON  
WICHITA, KANSAS 67214  
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## COMMITTEE ASSIGNMENTS

RANKING MINORITY MEMBER: • ELECTIONS & LOCAL  
GOVERNMENT

MEMBER: • WAYS &amp; MEANS

• JOINT COMMITTEE ON  
ADMINISTRATIVE RULES  
& REGULATIONS

• JUDICIARY

**Testimony by Senator Donald Betts Jr.**  
before  
the House Committee on Federal and State Affairs  
March 29, 2006

SB 486 basically asks the Legislature to continue the work of the Governor's Task Force on Racial Profiling by extending its existence to 2012.

Originally, the task force's only job was to create a uniform method for the collection of data about traffic stops. The idea was to use the data to identify patterns that might be caused by racial profiling, then work with the agency or officer to find out what was causing the pattern and, if the cause was racial profiling, to make sure the agency or officer had the training necessary to end the pattern.

SB 486 sets out a range of functions for the task force in consultation with the law enforcement agencies and organizations throughout the state of Kansas.

If SB 486 has any flaw, it is that it lacks language specifically making the data collection work part of the ongoing function of the task force. I have sent an amendment reinstating that language, and I believe you have copies or will have copies very soon.

This is not a perfect bill. As we all know, there's no such thing. But I feel strongly that its collaborative approach to this problem will make it possible for society to attack this issue among our law enforcement officers.

I strongly request your immediate consideration of SB 486 and that it be passed out of committee with a recommendation to adopt.

Thank you and I will take questions.

FEDERAL AND STATE AFFAIRS

Date 3-29-06Attachment 1

**State of Kansas**  
**House Committee on Federal and State Affairs**  
**Testimony in support of Substitute SB486**  
**Danielle Dempsey-Swopes, Executive Director**  
**Kansas African American Affairs Commission**  
**March 29, 2006**

Chairman Edmonds, members of the committee,

The Kansas African American Affairs Commission is pleased to continue its partnership with the Kansas Highway Patrol and other state law enforcement agencies to implement new statutes to prohibit racial profiling and implement law enforcement practices that will prevent such profiling. The statutes preventing racial profiling called for a 15 member task force, appointed by the Governor, to develop a process for the collection of data to prevent racial profiling. The Task Force report, dated October 31, 2005 outlined the following recommendations:

- **The identification of core data elements to be collected by each law enforcement agency for appropriate analysis.**
- **A recommendation for further research and consultation with an expert(s) to identify the appropriate benchmark(s) and appropriate data analysis methodology.**
- **The creation of a standard data collection form and initiation of an appropriate data collection process and method to ensure agency reporting.**
- **A recommendation for the appropriate repository, management and sharing of data and reports.**
- **A recommendation to reinstate the practice of indicating the race/ethnicity of Kansas drivers' on a Kansas driver's license.**
- **A recommendation to consider the use of a statewide, uniform traffic citation for future use.**
- **A recommendation for a permanent allocation of funding for the full implementation of SB77**
- **A recommendation to retain the current Task Force for an extended period.**

Substitute for Senate Bill 486 outlines the method for retaining the current task force for an extended period to fully implement the recommendations listed above. This Task Force on racial profiling is a productive and extraordinary partnership between law enforcement leaders and community leaders working together to address this very sensitive issue. The Task Force members include two Sheriffs from two of our largest urban communities, one Chief of Police, a member of the Highway Patrol, and a former police officer. The Task Force further included four representatives of state agencies involved in implementing a data collection process, four community advocates, and two co chairs; one community member and the other a former US Attorney for the State of Kansas. The Task Force has a well balanced membership and it's most significant goal is to make certain that all policies and procedures related to preventing racial profiling will be the result of significant collaboration between community members and law enforcement leaders.

The work of this Task Force will ultimately increase cooperation and trust between law enforcement personnel and Kansas minority communities. We believe that racial profiling can be prevented by continuing this unique partnership. We respectfully ask that you support this bill.

FEDERAL AND STATE AFFAIRS

Date 3/29/06  
Attachment 2

# KANSAS

## GOVERNOR'S TASK FORCE ON RACIAL PROFILING

### TASK FORCE MEMBERS

REV. ALLEN SMITH  
CO-CHAIRPERSON  
SALINA, KS

JACKIE WILLIAMS  
CO-CHAIRPERSON  
FORMER U.S. ATTORNEY  
WICHITA, KS

DR. PENNY ARMSTRONG  
AT LARGE  
PITTSBURG, KS

DR. E. A. BENSON  
KANSAS AFRICAN AMERICAN  
AFFAIRS COMMISSION  
WICHITA, KS

JANITH DAVIS  
AT LARGE  
TOPEKA, KS

DARLA FARNSWORTH  
KANSAS DISTRICT COURTS  
LEAVENWORTH, KS

LEROY GREEN, JR.  
KS ATTORNEY GENERAL'S OFFICE  
KANSAS CITY, KS

ANGELICA HAHN  
AT LARGE  
GARDEN CITY, KS

CLYDE HOWARD  
KS HUMAN RIGHTS COMMISSION  
MANHATTAN, KS

HERMAN T. JONES  
KANSAS HIGHWAY PATROL  
TOPEKA, KS

KEVIN MYLES  
NAACP  
WICHITA, KS

MIKE PADILLA  
KS DEPARTMENT OF REVENUE  
TOPEKA, KS

GARY STEED  
KANSAS SHERIFFS ASSOCIATION  
WICHITA, KS

JIM TERRONES  
KS HISPANIC & LATINO  
AMERICAN AFFAIRS COMMISSION  
OLATHE, KS

MIKE WATSON  
KANSAS ASSOCIATION OF CHIEFS  
OF POLICE  
MANHATTAN, KS

October 31, 2005

The Honorable Kathleen Sebelius  
Governor of the State of Kansas

The Honorable Stephen Morris  
President of the Senate, State of Kansas

The Honorable Douglas Mays  
Speaker of the House of Representatives,  
State of Kansas

Dear Governor Sebelius and Honorable Members of the Kansas Legislature,

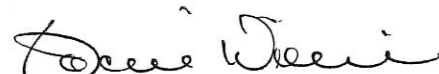
In accordance with the requirements of Substitute for Senate Bill 77, The Governor's Task Force on Racial Profiling is pleased to submit this report and recommendations. This report outlines our recommendations for the full implementation of Substitute senate Bill 77 throughout the State of Kansas.

Law enforcement agencies in the state may face many challenges as they move to implement this bill. However, the Task Force believes that with adequate resources and visionary leadership, none of the challenges are insurmountable. Please find our attached report and recommendations.

Respectfully,



Rev. Allen Smith  
Co-Chair  
Governors Task Force on Racial Profiling



Jackie Williams  
Co-Chair  
Governors Task Force on Racial Profiling

FEDERAL AND STATE AFFAIRS

Date 3/29/06  
Attachment 3

# **Governor's Task Force on Racial Profiling**

## **Report and Recommendations**

### **October 31, 2005**

#### **Introduction**

Substitute for Senate Bill 77 prohibits law enforcement officers or agencies from relying, "as a sole factor, on race, ethnicity, national origin, gender or religious dress in selecting which individuals to subject to routine investigatory activities or in deciding upon the scope and substance of law enforcement activity following the initial routine investigatory activity."

Substitute for SB77 also:

- Requires law enforcement agencies to adopt written policies to preempt racial profiling and to collect data on all traffic stops;
- Requires law enforcement agencies to provide annual education and training on racial profiling;
- Requires cities of the first class to establish or use current independent citizen advisory boards that include participants who reflect the racial and ethnic community;
- Requires law enforcement agencies to have a complaint procedure and to investigate racial profiling complaints;
- Authorizes the Kansas Human Rights Commission to investigate racial profiling complaints;

With the passage of Substitute for Senate Bill 77, the Kansas Legislature authorized Governor Sebelius to appoint a 15-member task force to design a method for the uniform collection of traffic stop data by Kansas law enforcement officers and to report its recommendations to the governor and legislature by November 1, 2005.

#### **Summary**

The task force met weekly between September 1 and October 31, 2005. In completing its work, the Task force reviewed studies on racial profiling and examined data collection methodologies used by several states and cities. The Task Force consulted several experts who provided insight on data collection and data comparison. Finally, the Task Force identified several recommendations for the full implementation of SB 77 in the State of Kansas. Specifically, these recommendations include:

- The identification of core data elements to be collected by each law enforcement agency for appropriate analysis.
- A recommendation for further research and consultation with an expert(s) to identify the appropriate benchmark(s) and appropriate data analysis methodology.
- The creation of a standard data collection form and initiation of an appropriate data collection process and method to ensure agency reporting.
- A recommendation for the appropriate repository, management and sharing of data and reports.
- A recommendation to reinstate the practice of indicating the race/ethnicity of Kansas drivers' on a Kansas driver's license.
- A recommendation to consider the use of a statewide, uniform traffic citation for future use.
- A recommendation for a permanent allocation of funding for the full implementation of SB77
- A recommendation to retain the current Task Force for an extended period.

## Report and Recommendations

The Task Force members endorse the final recommendations to the Governor and to the Kansas State Legislature as set forth below. In order to accomplish the objectives of SB77 three elements are necessary:

**A.) Data Collection, B.) Analysis through the use of benchmarks, and C.) Funding.**

### A. DATA COLLECTION

1. Following research and discussion, this Task Force recommends that the following data items be collected by every Kansas law enforcement agency following each traffic stop. (For further information regarding the rationale for each data source, see Appendix A.)

1. Officer Identification Number	Each jurisdiction will need the ability to analyze the enforcement actions of individual officers.
2. Demographic data	Age and Gender should be included in the demographic data for a complete analysis of enforcement actions.
3. Race	The categories for race should be, White, Black, Native American, Asian, other and more than one race.
4. Ethnicity	The categories for ethnicity shall be Hispanic/Latino and Non-Hispanic.
5. Agency/ORI	Data must be sorted by agency for a complete analysis of the enforcement activity in each jurisdiction.
6. County Code	Data will also be sorted by county for analysis. The Kansas Highway Patrol and County Sheriffs will need to make data analysis by county.
7. Location of the stop	The most useful analysis will also require sorting data by location. Traffic enforcement patterns differ greatly in many areas.
8. Time and Date of Stop	Traffic enforcement patterns also differ depending on the time of day and day of the week.
9. Primary reason for investigation	Analysis should include a review and comparison of the stops initiated by the officer and stops made because the officer was so directed. Officer initiated stops allow for greater discretion on the part of the officer while call related stops do not.
10. Means of gathering information	An analysis of whether the officer was aware of the demographic information before or after the stop is needed.
11. Observation of Religious dress or religious symbols	A data analysis should be made of stops where an officer observes the religious dress or religious symbols associated with the driver.
12. Primary Reason for the stop	Officers should indicate all that apply including: to render service, moving violation, equip/reg. violation, criminal offense/ probable cause, special detail, suspicious circumstances, pre-existing knowledge, call related, other. This data is needed to understand why the stop was made. The most common reasons for stops are identified. The absence of a primary reason for the stop can be an indicator of profiling.
13. Action Taken	Including: to render assistance, warrant arrest, search, citation, warning, arrest, no action. An analysis of the enforcement actions that take place following the stop is also critical to understanding officer perceptions and behavior. Profiling or other disparate treatment of citizens could occur following a reasonable stop.
14. Search Rationale	Including: search, vehicle indicators, verbal indicators, physical/visual indicators, incident to arrest, other, no search. A request to search may be made at the officer's discretion. A reasonable analysis will include the rationale for any search.
15. Type of Search	Including: consent search, inventory, stop and frisk, search warrant, consent denied, search incident to arrest, plain view, probable cause, no search conducted. An analysis of the type of search conducted should also be made.
16. Contraband seized	Including, currency, firearms, other weapons, drugs/paraphernalia, alcohol/tobacco, stolen property, other. The analysis should include whether searches generally result in finding contraband or some other result.



## **A. DATA COLLECTION, CONTINUED**

2. The Task Force recommends that the legislature amend SB 77 to make data collection mandatory for all law enforcement agencies and officers. The formal adoption of these recommendations to occur when the infrastructure and equipment is available for data collection and compilation, or within one year of the formal adoption of these recommendations, whichever occurs first.
3. The Task Force recommends that the state develop a standard form for data collection. It is recommended that the data collected by each law enforcement agency be documented on a state developed and supplied standard form. Individual law enforcement agencies should be given the option to collect and submit their data electronically. The use of the mobile data terminals and/or handheld personal computers are suggested as the most appropriate and cost-effective method of collecting data. (See Appendix B.)
4. The Task Force recommends that the State of Kansas reinstate the practice of indicating the race/ethnicity on the Kansas driver's license. It is recommended that the race/ethnicity of all motorists appear in a code format to assist officers in easily identifying the race/ethnicity of every Kansas driver. While this measure would take time to be fully implemented, due to the six year license renewal cycle, the Task Force found that the cost would be minimal.
5. The Task Force recommends that the data collected be confined to the information regarding the driver of the vehicle stopped and not the passengers in the vehicle.
6. The Task Force recommends that the data collected by individual law enforcement agencies be transmitted to the state on a quarterly basis.
7. The Task Force recommends the Attorney General/Kansas Bureau of Investigation serve as the repository for the traffic stop data as they are the repository for criminal data and already have the computer facilities and expertise to process and store law enforcement data. The Task Force understands that this will not be possible without the appropriate funding of personnel, equipment, and administration of the data collection for the Attorney General/KBI.
8. The Task Force recommends that all traffic enforcement data collected as a result of this program be considered public record except for the employee or officer identification information that would identify the individual officers. Pursuant to state statute and personnel regulations, the officer identification information is considered an employment record and thus only available to the officer's agency for an analysis of individual officer actions. This information is a useful management tool in resolving issues and/or the administration of personnel matters raised by the analysis.
9. The Task Force recommends the immediate implementation of the standard form for data collection. The Task Force further recommends that the state consider the use of a uniform traffic citation for future use as the means of collecting and storing all law enforcement/criminal justice traffic stop data. A uniform traffic ticket, utilized by all jurisdictions, would allow for the collection, storage and sharing of all law enforcement traffic data including racial profiling data.

## **B. BENCHMARKING AND ANALYSIS**

A benchmark is a standard (baseline) for comparison of all collected data. The research of the Task Force shows that the establishment of benchmarks (comparison data) is vital to the validity of the final data analysis. The collection of data without analysis by a competent expert will invalidate the entire process.

1. The Task Force recommends further research into the methods to be used to benchmark traffic stop data. The Task Force research regarding benchmarks indicates that significant expertise will be needed to determine a method of benchmarking of the data collected. There is no consensus about the best benchmark against which to compare traffic stop data and thus determine whether substantial disparities in the number of investigatory activities members of one group experiences constitute racial profiling. The literature on racial profiling describe several commonly used benchmarking methods. (See Appendix C.)
2. The Task Force recommends hiring an expert to determine an appropriate benchmarking method and analysis for interpretation of data in our state. Appropriate benchmarks are critical for a meaningful analysis.
3. The Task Force recommends the publication of an annual report summarizing the data on a statewide basis and that data be made available for public review. It is recommended that each law enforcement agency internally review and analyze the data to determine whether officers are inappropriately using race, gender, national origin, ethnicity, or religious dress as the sole reason for traffic stops or follow-up investigations.

## **C. FUNDING**

1. The Task Force recommends that the state provide sufficient and permanent funds for the implementation of a process to include, but not limited to: collecting, storing, transmitting, and analyzing data on a statewide basis. The objectives of SB 77 will not be met without adequate funding to meet the desired goals.
2. The Task Force recommends a modest increase in the Kansas driver's license fees as a potential funding source.
3. The Task Force recommends that permanent and sufficient funds be allocated for the statewide analysis of the data on an annual basis. The Task Force recommends that the state retain the services of an expert to assist in determining how the data should be analyzed and how to respond to problems that the data might indicate.

## **OTHER RECOMMENDATION**

The Task Force further recommends that the Governor and the legislature retain the current Task Force to address the recommendations above and other issues related to the full implementation of all sections of SB77 in the state of Kansas. The Task Force recommends that the body meet monthly for the next two calendar years following the November 1, 2005 deadline. Funding for administrative costs and the cost of travel to meetings is also recommended.

Respectfully submitted, October 31, 2005

**Acknowledgements**

Terri Moses , Wichita Police Department, Wichita, Kansas participated in the deliberations and research and offered insightful comments and advice that helped to guide the research, achieve consensus during the task force's deliberations and to shape the broad outlines of the final report and recommendations.

Gordon Lansford, Director, Kansas Criminal Justice Information System, provided invaluable information about current criminal justice databases and the collection and distribution of criminal justice data.

Danielle Dempsey-Swopes, Executive Director, Kansas African American Affairs Advisory Commission and Elias Garcia, Executive Director, Kansas Hispanic and Latino American Affairs Commission, ably obtained reference materials, data collection tools used by law enforcement agencies.

## APPENDIX A

### DESIGN FOR UNIFORM COLLECTION OF TRAFFIC STOP DATA

The task force recommends that should the legislature approve the uniform collection of data by all law enforcement officers in the state of Kansas that the following data be collected:

1.     **Officer Identification Number**  
Each jurisdiction will need the ability to analyze the enforcement actions of individual officers. The officer identification number should be assigned by each law enforcement agency and only be available to that law enforcement agency for analysis of individual officers. The information revealing the identity of the individual officer should not be public record. The bubble form should make four character spaces available for officer identification number.
  
2.     **Age**  
Age should be included in the demographic data for a complete analysis of enforcement actions. Age is a common data element in traffic stop studies and is relevant in the analysis of traffic stop data. Age should be determined through the officer's examination of the driver's date of birth on the driver's license. Should the driver not have a driver's license the officer should ask the driver for his/her age. The bubble form should make two characters spaces available for age.
  
3.     **Gender**  
Gender is a data element required by the statute and should be included in the demographic data for a complete analysis of enforcement actions. Gender should be determined by the officer's observation and through examination of the individual's driver's license. The bubble form should include the following three data choices for gender: Male, Female, Unknown
  
4.     **Race**  
Race is a data element required by the statute and should be included in the demographic data for a complete analysis of enforcement actions. Race should be determined by the officer's observation. The task force believes that in the future race should be indicated on all drivers' licenses. The bubble form should include the following six data choices for race: White, Black, Native American, Asian, Other, More than one race
  
5.     **Ethnicity**  
Ethnicity is a data element required by the statute and should be included in the demographic data for a complete analysis of enforcement actions. Ethnicity should be determined by the officer's observation. The task force believes that in the future ethnicity should be indicated on all drivers' licenses. The bubble form should include the following two data choices for ethnicity: Hispanic/Latino, Non-Hispanic
  
6.     **Agency ORI**  
Data must be sorted by agency for a complete analysis of the traffic stop enforcement activity in each jurisdiction. Each law enforcement agency in Kansas has an ORI that

distinguishes it from all others. The bubble form should make seven character spaces available for Agency ORI.

**7. County Code**

Traffic stop data should also be sorted by county for analysis. The Kansas Highway Patrol and county sheriffs often do not break down their jurisdictions with beats or reporting areas and the county as a whole will constitute the geographic area where the stop was conducted. This is necessary for establishing benchmarking and the proper analysis of the traffic stop data. The bubble form should make two character spaces available for County code.

**8. Location of the stop**

The most useful analysis of traffic stop data will also require sorting data by more specific locations than simply county. The demographics of areas where traffic enforcement occurs and traffic enforcement patterns differ greatly in many areas and the more specific the location the more relevant and accurate the benchmarking can be. These locations will be determined by each individual law enforcement agency and will probably correspond to their current beat structure or reporting areas. The bubble form should make four character spaces available for location of stop.

**9. Date of Stop**

Traffic demographics and enforcement patterns sometimes differ significantly depending on the day of the week or special events that occur on a particular day of the week or singular day. The date is a relevant data element and will be useful in the analysis of the traffic stop data. The bubble form should make six character spaces available for the date of stop. Two spaces should be available for month, two for day and two for year.

**10. Time of Stop**

Traffic demographics and enforcement patterns sometimes differ significantly depending on the time of day. The date is a relevant data element and will be useful in the analysis of the traffic stop data. The bubble form should make four character spaces available for the time of stop.

**11. Primary reason for investigation**

Analysis should include a review and comparison of the stops initiated by the officer and stops made because the officer was directed to do so. Officer initiated stops allow for greater discretion on the part of the officer while call related stops do not. The bubble form should include the following two data choices for primary reason for investigation: Call related, Officer initiated

**12. Means of gathering information**

Demographic information obtained through the officer's perception may be different from the actual demographic information. An analysis of whether the officer was aware of the demographic information before or after the stop is also important. The bubble form should include the following two data choices for information obtained by: Officer's perception, Investigation

- 13. Religious dress**  
Religious dress is a data element required by the statute and should be included in the demographic data for a complete analysis of enforcement actions. The officer will document whether in his opinion the driver stopped was wearing religious dress. The task force believed that religious dress possibly should be expanded to religious dress or symbols. The bubble form should include the following data choices for Religious dress: Yes, No
- 14. Primary Reason for the stop**  
In order to determine the motivation for stopping the vehicle officers should be asked to document the primary reason for stopping the vehicle. The most common reasons for traffic stops have been identified. The absence of an appropriate reason for the stop could be an indicator of profiling. The bubble form should include the following eight data choices for the primary reason for the stop: Moving violation, Equipment violation, Criminal Offense/Probable Cause, Other violation, To render service, Suspicious circumstances, Pre-existing knowledge, Special detail
- 15. Action Taken**  
In order to determine what investigative or follow-up action was taken by the officer the enforcement action the officer conducts should be documented. An analysis of the enforcement actions that take place following the stop is also critical to understanding possible discrimination on the part of an officer. Profiling or other disparate treatment of citizens could occur following a reasonable stop. The bubble form should include the following seven data choices for Action taken (The officer should document all of the data choices that apply): Citation, Search, Warning, Arrest, Warrant arrest, Assistance provided, No action taken
- 16. Search Rationale**  
The officer's rationale for the subsequent investigatory action in the form of a search is necessary for a proper analysis. A request to search may be made at the officer's discretion. A reasonable analysis will include the rationale for any search. The bubble form should include the following seven data choices for Search rationale (The officer should document all of the data choices that apply): No search conducted, Vehicle indicators, Verbal indicators, Physical/visual indicators, Document indicators, Incident to arrest, Other
- 17. Type of Search**  
The type of search may provide significant information relevant to the analysis of whether an officer conducts appropriate searches following a traffic stop. The bubble form should include the following nine data choices for type of search (The officer should document all of the data choices that apply): No search requested, Consent search conducted, Inventory, Stop and frisk, Search warrant, No search/consent denied, Search incident to arrest, Plain view, Probable cause
- 18. Contraband seized**  
The existence of contraband or the type of contraband that is eventually found during a search following a traffic stop may reveal information significant in the analysis of the overall data collection for a particular officer or particular location.

The bubble form should include the following eight data choices for contraband seized  
(The officer should document all of the data choices that apply):

- None
- Currency
- Firearms
- Other weapons
- Drugs/paraphernalia
- Alcohol/Tobacco products
- Stolen property
- Other

# KANSAS STATE LAW ENFORCEMENT DATA COLLECTION FORM

Form # 321-019

The following information should be obtained and documented for all vehicle stops.

## MARKING INSTRUCTIONS

- Use black or blue pen or a number 2 pencil.
- Do not use pens with ink that soaks through the paper.
- Make dark marks that fill the oval completely.
- Make no stray marks.

**Employee Identification Number**

0	0	0	0
1	1	1	1
2	2	2	2
3	3	3	3
4	4	4	4
5	5	5	5
6	6	6	6
7	7	7	7
8	8	8	8
9	9	9	9

**Age, race, gender and ethnicity of the primary person contacted:**

**Age:**

0	0
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9

**Race:**

White

Black

Native American

Asian

Other

More than one race

**Gender:**

Male

Female

Unknown

**Ethnicity:**

Hispanic/Latino

Non-Hispanic

**Agency ORI**

KS

0	0	0	0	0	0
1	1	1	1	1	1
2	2	2	2	2	2
3	3	3	3	3	3
4	4	4	4	4	4
5	5	5	5	5	5
6	6	6	6	6	6
7	7	7	7	7	7
8	8	8	8	8	8
9	9	9	9	9	9

**County Code**

0	0
A	A
B	B
C	C
D	D
E	E
F	F
G	G
H	H
I	I
J	J
K	K
L	L
M	M
N	N
O	O
P	P
Q	Q
R	R
S	S
T	T
U	U
V	V
W	W
X	X
Y	Y
Z	Z

**Location of the stop:**

**Beat or Response Area**

0	0	0	0
1	1	1	1
2	2	2	2
3	3	3	3
4	4	4	4
5	5	5	5
6	6	6	6
7	7	7	7
8	8	8	8
9	9	9	9

**Time and date of stop:**

**Time**

0	0	0	0
1	1	1	1
2	2	2	2
3	3	3	3
4	4	4	4
5	5	5	5
6	6	6	6
7	7	7	7
8	8	8	8
9	9	9	9

**Date**

Mo.	Day	Year
0	0	0
1	1	1
2	2	2
3	3	3
4	4	4
5	5	5
6	6	6
7	7	7
8	8	8
9	9	9

**Primary Reason for Officer Investigation:**

Call related       Officer initiated

---

**Information was obtained by:**

Officer's perception       Investigation

---

**Religious Dress**

Yes       No

Primary reason for the stop:	Action taken:	Search Rationale: Mark all that apply	Type of Search: Mark all that apply	Contraband Seized: Mark all that apply
<input type="radio"/> Moving Violation <input type="radio"/> Equipment Violation <input type="radio"/> Criminal Offense/ Probable Cause <input type="radio"/> Other Violation <input type="radio"/> To render service <input type="radio"/> Suspicious circumstances <input type="radio"/> Pre-existing knowledge <input type="radio"/> Special detail	<input type="radio"/> Citation <input type="radio"/> Search <input type="radio"/> Warning <input type="radio"/> Arrest <input type="radio"/> Warrant Arrest <input type="radio"/> Assistance Provided <input type="radio"/> No Action	<input type="radio"/> Not Applicable <input type="radio"/> Vehicle Indicators <input type="radio"/> Verbal Indicators <input type="radio"/> Physical/Visual Indicators <input type="radio"/> Document Indicators <input type="radio"/> Incident to Arrest <input type="radio"/> Other	<input type="radio"/> No Search Conducted <input type="radio"/> Consent Search Conducted <input type="radio"/> Inventory <input type="radio"/> Stop and Frisk <input type="radio"/> Search Warrant <input type="radio"/> No Search/Consent Denied <input type="radio"/> Search Incident to Arrest <input type="radio"/> Plain View <input type="radio"/> Probable Cause	<input type="radio"/> None <input type="radio"/> Currency <input type="radio"/> Firearms <input type="radio"/> Other Weapons <input type="radio"/> Drugs/Paraphernalia <input type="radio"/> Alcohol/Tobacco Products <input type="radio"/> Stolen Property <input type="radio"/> Other

3-11



## Appendix C

Noted authorities on racial profiling have offered analysis of several methods for establishing benchmarking data including the following:

Census population of ethnicities. The ethnicities of drivers from traffic stops are compared to the census ethnicities of the population in a particular jurisdiction. A potential problem with this type of analysis is the ethnic breakdown in the census may not be representative of the population likely to be involved in a traffic stop. Drivers may be commuting into the area and may not be the same people who live in the neighborhood where the traffic stop occurred.

Observational data. This method entails observing the drivers in a jurisdiction in order to create a comparison group who represent “people who could potentially be stopped by a police officer during a traffic stop.” The observational analysis is conducted by noticing the demographic profile of drivers at a particular intersection or drivers involved in traffic violations. As with the census population method, drivers may be commuting into the area and may not be representative of the area.

Substitute for SENATE BILL No. 77

AN ACT concerning racial and other profiling; prohibiting certain actions and providing remedies for violations.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. As used in this act:

(a) "Governmental unit" means the state, or any county, city or other political subdivision thereof, or any department, division, board or other agency of any of the foregoing.

(b) "Law enforcement agency" means the governmental unit employing the law enforcement officer.

(c) "Law enforcement officer" has the meaning ascribed thereto in K.S.A. 74-5602, and amendments thereto.

(d) "Racial profiling" means the practice of a law enforcement officer or agency relying, as the sole factor, on race, ethnicity, national origin, gender or religious dress in selecting which individuals to subject to routine investigatory activities, or in deciding upon the scope and substance of law enforcement activity following the initial routine investigatory activity. Racial profiling does not include reliance on such criteria in combination with other identifying factors when the law enforcement officer or agency is seeking to apprehend a specific suspect whose race, ethnicity, national origin, gender or religious dress is part of the description of the suspect.

(e) "Routine investigatory activities" includes, but is not limited to, the following activities conducted by law enforcement officers and agencies in conjunction with traffic stops: (1) Frisks and other types of body searches, and (2) consensual or nonconsensual searches of persons or possessions, including vehicles, dormitory rooms, school lockers, homes and apartments.

(f) "Collection of data" means that information collected by Kansas law enforcement officers after each traffic.

Sec. 2. A 15-member task force shall be appointed by the governor to design a method for the uniform collection of data. The task force shall include representatives of the Kansas attorney general's office, the Kansas highway patrol, city and county law enforcement agencies, the Hispanic and Latino American affairs commission, the advisory commission on African-American affairs, the department of revenue, Kansas human rights commission, Kansas district courts, Kansas civil rights advocates and others who can assist in the uniform collection of data. The task force shall make a final report and recommendations to the governor and the legislature not later than November 1, 2005.

Sec. 3. It shall be unlawful for any law enforcement officer or any law enforcement agency to engage in racial profiling.

Sec. 4. The race, ethnicity, national origin, gender or religious dress of an individual or group shall not be the sole factor in determining the existence of probable cause to take into custody or to arrest an individual or in constituting a reasonable and articulable suspicion that an offense has been or is being committed so as to justify the detention of an individual or the investigatory stop of a vehicle.

Sec. 5. (a) All law enforcement agencies in this state shall adopt a detailed, written policy to preempt racial profiling. Each agency's policy shall include the definition of racial profiling found in section 1, and amendments thereto.

(b) Policies adopted pursuant to this section shall be implemented by all Kansas law enforcement agencies within one year after the effective date of this act. The policies and data collection procedures shall be available for public inspection during normal business hours.

(c) The policies adopted pursuant to this section shall include, but not be limited to, the following:

(1) A prohibition of racial profiling.

(2) Annual educational training which shall include, but not be limited to, an understanding of the historical and cultural systems that perpetuate racial profiling, assistance in identifying racial profiling practices, and providing officers with self-evaluation strategies to preempt racial profiling prior to stopping a citizen.

(3) For law enforcement agencies of cities of the first class, establishment or use of current independent citizen advisory boards which include participants who reflect the racial and ethnic community, to advise and assist in policy development, education and community outreach and

communications related to racial profiling by law enforcement officers and agencies.

(4) Policies for discipline of law enforcement officers and agencies who engage in racial profiling.

(5) A provision that, if the investigation of a complaint of racial profiling reveals the officer was in direct violation of the law enforcement agency's written policies regarding racial profiling, the employing law enforcement agency shall take appropriate action consistent with applicable laws, rules and regulations, resolutions, ordinances or policies, including demerits, suspension or removal of the officer from the agency.

(6) Provisions for community outreach and communications efforts to inform the public of the individual's right to file with the law enforcement agency or the Kansas human rights commission complaints regarding racial profiling, which outreach and communications to the community shall include ongoing efforts to notify the public of the law enforcement agency's complaint process.

(7) Procedures for individuals to file complaints of racial profiling with the agency, which, if appropriate, may provide for use of current procedures for addressing such complaints.

(d) Each law enforcement agency shall compile an annual report of all complaints of racial profiling received and shall submit the report on or before January 31 to the office of the attorney general for review. The annual report shall include: (1) The date the complaint is filed; (2) action taken in response to the complaint; (3) the decision upon disposition of the complaint; and (4) the date the complaint is closed. Annual reports filed pursuant to this subsection shall be open public records and shall be posted on the official website of the attorney general.

Sec. 6. (a) Any person who believes such person has been subjected to racial profiling by a law enforcement officer or agency may file a complaint with the law enforcement agency. The complainant may also file a complaint with the Kansas human rights commission. The commission shall review and, if necessary, investigate the complaint. The commission's designee shall consult with the head of the law enforcement agency before making final recommendations regarding discipline of any law enforcement officer or other disposition of the complaint.

(b) Upon disposition of a complaint as provided for in subsection (a) the complainant shall have a civil cause of action in the district court against the law enforcement officer or law enforcement agency, or both, and shall be entitled to recover damages if it is determined by the court that such persons or agency engaged in racial profiling. The court may allow the prevailing party reasonable attorney fees and court costs.

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RACIAL AND OTHER PROFILING  
ADMINISTRATOR  
KAREN K. MCDANELD  
OFFICE MANAGER

**WRITTEN TESTIMONY OF THE KANSAS HUMAN RIGHTS COMMISSION  
REGARDING  
Substitute for S.B. 486  
March 29, 2006**

Staff Attending Hearing: William V. Minner, Executive Director  
Brandon L. Myers, Chief Legal Counsel  
Ruth Glover, Assistant Director  
Rick Fischli, Racial and Other Profiling Administrator

In the United States, we are fortunate the Constitution guarantees equal protection under the law. Our race, ethnicity, national origin, gender and religious dress should not matter in the eyes of the law. Although we would like perfect implementation of this lofty goal in every situation, that is not always the case. There are concerns that we fall short of this goal especially in regards to profiling, which undermines the public's trust of the law, law enforcement, and law enforcement officers.

In February 2003, the Police Foundation and subcontractor Lamberth Consulting, LLC, concluded a study authorized by the 2000 Legislature to develop a system to collect and report statistics relating to race, ethnicity, sex, age and residency by county and state of those who came in contact with law enforcement activities, and to determine if Kansas law enforcement agencies engaged in racial profiling. The research concluded, "The results of this study demonstrated, by and large, that the State of Kansas is experiencing profiling of Hispanic and Black motorists. While evidence of this was not apparent in all jurisdictions, seven assessed agencies had evidence of at least one of these two groups being targeted by police in traffic stops. In three of the seven jurisdictions, evidence of profiling of both Hispanics and Blacks was present."

It is interesting to note that our neighboring state of Missouri has also wrestled with the topic of profiling. The *Kansas City Star* reported on June 2, 2005, for Missouri that, "Statewide, the statistics showed that black motorists were 38 percent more likely than white drivers to be stopped. And after the stop, they were 71 percent more likely to be searched." Even when there was no disparity in the number of stops in a specific locale, the *Star* reports that treatment after the stop often differs: "The state report found that black drivers or their property were searched more often (9 percent) compared with Hispanic drivers (6 percent) and white

FEDERAL AND STATE AFFAIRS

Date 3/29/06

Attachment 4

drivers (2 percent). After a stop, black drivers were ticketed 79 percent of the time, compared with 87 percent for Hispanic drivers and 93 percent for white drivers.”

On a national level, the U.S. Department of Justice’s “Contacts Between Police and Public-Findings from the 2002 National Survey” reported that, “The likelihood of being stopped by police in 2002 did not differ significantly among white (8.7%), black (9.1%), and Hispanic (8.6%) drivers.” The survey, however, highlighted that treatment after the stop was often disparate, reporting that, “1. Black (10.2%) and Hispanic (11.4%) motorists stopped by police were more likely than whites (3.5%) to be physically searched or to have their vehicle searched. 2. Black (8.1%) and Hispanic (8.3%) motorists were more likely than white (2.5%) motorists to be subjected to a physical search of the driver. 3. Police were more likely to search a vehicle driven by a black (7.1%) or Hispanic (10.1%) than by a white (2.9%).” Although these differences may or may not be a result of profiling, they certainly raise concerns.

Last Legislative session, Kansas, through the efforts of Senator Donald Betts, Jr., Senator David Haley, the Legislature, and Governor Sebelius, once again lead the nation in the civil rights field by adopting Substitute for Senate Bill 77, which prohibits the use of racial and other profiling in conjunction with traffic stops. At the time of its passage, just 19 other states had legislation prohibiting racial profiling and/or requiring jurisdictions within the state to collect data on law enforcement stops and searches, and only five states provided for some type of complaint reporting mechanism. Kansas was the only state providing for the filing and investigation, if necessary, of racial and other profiling complaints with an independent agency, the Kansas Human Rights Commission.

Substitute for Senate Bill 486 provides a unique opportunity to raise the state’s social consciousness and to provide statewide leadership by addressing profiling concerns by continuing the Governor’s Task Force on Racial Profiling. Perhaps the most important aspects of this bill are the Task Force’s cooperative relationship with local and state law enforcement agencies, receipt of public input, and informing the public of profiling issues through public hearings and meetings. This unique relationship establishes the Task Force as conduit between law enforcement and the public.

Last legislative session’s Substitute for Senate Bill 77 provided for the appointment of a Task Force to design a uniform method for the collection of data. This Task Force has tackled the complicated issue of data collection, and submitted within their statutorily required recommendation a model for mandating data collection for traffic and other vehicle stops. If the Legislature and the Governor choose to proceed to the next step and mandate data collection of traffic stops statewide, decisions on the use of that data will be needed. Those decisions must be made with the authority and public trust that a sanctioned body, such as the Governor’s Task Force on Racial Profiling, would provide.

Since the implementation of Substitute for Senate Bill 77 on July 1st, our contact with law enforcement agencies has been positive and we have found them eager to address the public’s concern about profiling. They understand that profiling, even the perception of profiling, detracts from the integrity of the individual, law enforcement, and society at large. Charles de Montesquieu, a French lawyer and philosopher, once said, “In the state of nature...all men are born equal, but they cannot continue in this equality. Society makes them lose it, and they recover it only by the protection of the law.” The act of profiling inherently makes persons unequal before the law by the very individuals who are supposed to uphold it. The Governor’s Task Force on Racial Profiling can provide a leadership role on this socially important issue, ensuring that Lady Justice remains blind to our race, ethnicity, national origin, gender and religious dress.

March 29, 2006

Ed Klumpp, Chief of Police-Retired  
On Behalf of the Kansas Association of Chiefs of Police  
P O Box 780603  
Wichita, KS 67278-0603

Representative John Edmonds  
Chair, House Federal and State Affairs Committee  
Kansas House of Representatives

REF: Committee Hearing on Substitute SB 486

Dear Chairman Edmonds,

The Kansas Association of Chiefs of Police is not in opposition of the extension of the Racial Profiling Task Force established in KSA 22-4607, as proposed in Substitute SB486 and as explained in the Supplemental Note on the recommendation of the Senate Committee on Federal and State Affairs.

The current task force has simply not had adequate time to derive the proper balance in the multitude of relevant issues facing our citizens and our law enforcement officers and agencies. Sound solutions require a methodical approach involving a great deal of dialogue. The results must assure fairness in the application of law enforcement efforts while assuring confidence among law enforcement that they can still use appropriate law enforcement activities necessary to stop criminal victimization.

It is not our intention to provide testimony at the House Federal and State Affairs Committee hearing today, but I will be in the audience and available to respond to questions if any of the Committee members so desire.



Ed Klumpp  
Chief of Police-Retired  
Topeka Police Department

FEDERAL AND STATE AFFAIRS  
Date 3/29/06  
Attachment 5





## MEMORANDUM

To: Chairman Edmonds  
House Federal and State Affairs Committee

From: Tuck Duncan, KS Wine & Spirits Wholesalers Assn. *td.*  
Neal Whitaker, KS Beer Wholesalers association  
Amy Campbell, KS Beverage Retailers Assn.  
Phil Bradley, KS Licensed Beverage Association

*HB 2955*  
RE: SB 590, FLAVORED MALT BEVERAGES

*2955*  
Please consider SB 590 favorably and report it to the full House. There Was NO opposition to the bill at the hearing.

The bill does need an amendment (of which Mary Torrence is aware) at the request of the Alcoholic Beverage Control, to add the words "flavored malt beverage" to KSA 41-2701(a).

As you are aware The Kansas Department of Revenue has indicated that, in the absence of direction from the Kansas Legislature, it would tax flavored malt beverage products as liquor since these products may contain alcohol that was originally distilled and is part of the flavoring. This bill preserves the current category status for these products and conforms Kansas law to new federal rules.

Thank you for your attention to this matter.

FEDERAL AND STATE AFFAIRS

Date 3/29/06

Attachment 6

## Proposed Amendment to HB 2955

Add sections to read as follows:

"Sec. 2. K.S.A. 41-2701 is hereby amended to read as follows: 41-2701. As used in this act unless the context otherwise requires:

(a) "Cereal malt beverage" means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute or any flavored malt beverage, as defined in section 1, and amendments thereto, but does not include any such liquor which is more than 3.2% alcohol by weight.

(b) "Director" means the director of alcoholic beverage control of the department of revenue.

(c) "Manufacturer" means a manufacturer as defined by K.S.A. 41-102 and amendments thereto.

(d) "Person" means any individual, firm, partnership, corporation or association.

(e) "Retailer" means any person who sells or offers for sale any cereal malt beverage for use or consumption and not for resale in any form.

(f) "Place of business" means any place at which cereal malt beverages are sold.

(g) "Distributor" means a beer distributor licensed pursuant to the Kansas liquor control act.

(h) "Legal age for consumption of cereal malt beverage" means 21 years of age, except that "legal age for consumption of cereal malt beverage" shall mean 18 years of age if at any time the provisions of P.L. 98-363 penalizing states for permitting persons under 21 years of age to consume cereal malt beverage are repealed or otherwise invalidated or nullified.

Sec. 3. K.S.A. 41-2701 is hereby repealed.";

ReNUMBER the remaining section and amend the title accordingly

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Add sections to read as follows:

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ReNUMBER the remaining section and amend the title accordingly