

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Les Donovan at 8:30 A.M. on January 31, 2006 in Room 527-S of the Capitol.

All members were present.

Committee staff present:

Hank Avila, Kansas Legislative Research Department
Bruce Kinzie, Revisors of Statutes
Maggie Breen, Committee Secretary

Conferees appearing before the committee:

Senator Phil Journey
Jim Edwards, Ks Association of School Boards
David Church, Chief, Bureau of Traffic Engineers

Others attending:

See attached list.

Chairman Donovan opened the hearing on SB 344 - Traffic regulation, school crossing zones, school crossing guards.

Senator Phil Journey said last year SB 35 passed in the Senate but not the House. This year he has separated the two components into two bills. SB 344 has the component that creates the new traffic infraction of disobeying a school crossing guard and grants authority to local school districts to have crossing guards. (Attachment 1)

Jim Edwards, Ks Association of School Boards, said they feel the intent is good and that the bill is drafted well. He said he hopes the committee will pass the bill and that it will become law this year. (Attachment 2)

David Church, Chief, Bureau of Traffic Engineers, said KDOT is not opposed to the bill but he does want to make a distinction between an adult acting as a crossing guard with the authority to stop and control traffic and a student who helps kids across the street. The bill doesn't make a clear distinction between the two. He proposed a modification to clarify that "school crossing guards under 18 should be given the authority to direct and control children, "not traffic" or to remove the reference to students under the age of 18 altogether. He also proposed changing line 28 in Section 3 from "may provide training" to "should provide training." (Attachment 3)

Chairman Donovan closed the hearing on SB 344 and opened the hearing on SB 347 - Doubling speeding fines in school zones.

Senator Phil Journey said SB 347 is the second component from SB 35 and it simply doubles the fine. There is a precedent for it; modified and doubled fines for speeding in a construction zone. Also, many cities have adopted doubling or tripling city ordinances. He wants to send a value statement. Our children are as important as our construction workers. (Attachment 4)

David Church, Chief, Bureau of Traffic Engineers, said they are in favor of the bill. (Attachment 5)

Chairman Donovan closed the hearing on SB 347 and opened the hearing on SB 345 - Traffic regulation, speeding based on conditions, not moving violation.

Senator Phil Journey said unlike the normal speeding violation, where you're charged with going 55 mph in a 45 mph zone, K.S.A. 8-1557 is called the basic speed rule. Simplifying it, it's operation of a motor vehicle in a manner greater than reasonable and prudent for the conditions and circumstances you're driving in. Due to the subjective circumstances of normal prosecution under this statute, SB 345 proposes that these cases do not count against your driving record for insurance purposes or suspension of licences. (Attachment 6)

Chairman Donovan closed the hearing on SB 345 and said he would work SB 413. He asked Senator Peterson

CONTINUATION SHEET

MINUTES OF THE Senate Transportation Committee at 8:30 A.M. on January 31, 2006 in Room 527-S of the Capitol.

if he had an amendment he wanted to request.

Senator Petersen made a motion to amend SB 413 to require SMV sign. Senator Schmidt seconded the motion. The motion carried.

Senator Petersen made a motion to move the bill out favorably as amended. Senator Wilson seconded the motion. The motion carried. Senator Lee will carry the bill.

Chairman Donovan presented the committee minutes for January 17th and January 19th. Senator Schmidt made a motion to approve the minutes as written. Senator Gilstrap seconded the motion. The motion carried.

The meeting adjourned at 9:06 a.m.

The next meeting is scheduled for February 1, 2006.

**SENATE TRANSPORTATION COMMITTEE
GUEST LIST**

DATE: January 31, 2006

NAME	REPRESENTING
Jim Edwards	KASB
Gary Davenport	KUCA
Larry R. Bass	LKM
David Church	KDOT

SENATOR PHILLIP B. JOURNEY

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TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS

MEMBER: SPECIAL CLAIMS AGAINST THE STATE
(JOINT), CHAIR
HEALTH CARE STRATEGIES
JUDICIARY
PUBLIC HEALTH AND WELFARE
TRANSPORTATION

CORRECTIONS AND JUVENILE JUSTICE
OVERSIGHT (JOINT)

SOUTH CENTRAL DELEGATION, CHAIR

**Testimony for the Kansas Senate Transportation Committee
Presented January 31, 2006 in Support of Senate Bill #344**

It is a privilege and an honor to have the opportunity to address the Senate Transportation Committee and to offer comments in support of Senate Bill #344. It is intended to amend K.S.A. 8-1486 and K.S.A. 8-2118.

This bill was originally filed last year as SB #35. SB #35 was comprised of two parts. Those two parts have now been separated to create SB #344 and SB #347. This bill creates a new infraction for failing to obey the direction of a uniformed school crossing guard and more clearly defines the authority of schools public or private to appoint crossing guards. The Attorney General's Opinion cited as #73-278 reflects the current definition of the statutory authority of local School Boards to designate them. (A copy of the Attorney General's opinion is attached.) While other statutes could conceivably be used to prosecute similar violations in some but not all circumstances, having a specific law encourages law enforcement action and further describes the driver's actions. This specific description will aid risk assessors in their analysis for purposes such as insurance underwriting. The scheduled fine is the same as Disobeying a traffic control device sixty dollars (\$60.00) plus court costs.

This bill passed the Senate last year with a large majority, but has languished in the Kansas House of Representatives due perhaps in part to the misinterpretation that the crossing guard could issue the citation. The legislation is drafted so it is clearly indicated that no new arrest power is created or vesting in such crossing guard. As with current traffic infractions only the law enforcement officer may issue such citation upon direct observation.

Respectfully submitted,

Senator Phillip B. Journey
26th District



STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

WEN MILLER
Attorney General

August 16, 1973

Opinion No. 73-278

Ted R. Morgan
Kearny County Attorney
Lakin, Kansas 67860

Dear Mr. Morgan:

You ask whether the board of education of a unified school district may employ persons to patrol school crossing areas on public streets.

Previous Attorney Generals' Opinions have concluded that the board is without such authority. However, our examination of K.S.A. 72-8222 convinces us that the boards do have such authority.

Said statute provides thusly:

"The board of education of any school district or the board of trustees of any community junior college may employ school security officers to aid and supplement law enforcement agencies of this state and of the community in which such school district or community junior college is located. Such protective function shall extend to all school district property and the protection of students, teachers and other employees together with the property of such persons on or in any school property. While engaged in such protective function, as hereinbefore provided, each school security officer so employed shall possess and exercise all general law enforcement powers and privileges in every county in which there is located any part of the territory of such school district or community junior college."
[Emphasis supplied.]

Ted R. Morgan
August 16, 1973
Page Two

We feel that the emphasized portion of the above quoted statute is broad enough to authorize a security officer to protect students at crossings whether located on school property or not.

Accordingly, a school security officer has the authority to patrol school crossing areas in any county wherein school district property is located.

We hereby withdraw that portion of any opinion that is contrary to what we say here.

Very truly yours,



VERN MILLER
Attorney General

VM:JCJ:jsm

**KANSAS
ASSOCIATION**



**OF
SCHOOL
BOARDS**



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Testimony on **SB 344**
before the
Senate Transportation Committee

by

Jim Edwards, Governmental Relations Specialist
Kansas Association of School Boards

January 31, 2006

Chairman Donovan and Members of the Committee:

Thank you for allowing me to appear today in support of **SB 344**, a measure that would increase penalties for certain school crossing violations.

We support this bill as it should enhance the safety of children walking in marked school crossings. In addition, it also provides for a definition of school crossing guards. We stress that the crossing guards will not be the ones writing the citation or reporting the violation.

Thank you for the opportunity to appear in support of this measure and I would be happy to answer questions.

KANSAS

DEPARTMENT OF TRANSPORTATION
DEB MILLER, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

TESTIMONY BEFORE THE SENATE TRANSPORTATION COMMITTEE

REGARDING SENATE BILL 344 RELATING TO SCHOOL CROSSING GUARDS

JANUARY 31ST, 2006

Mr. Chairman and Committee Members:

Good morning. My name is David Church, Chief of Traffic Engineering for the Kansas Department of Transportation (KDOT). I appreciate the opportunity to testify on Senate Bill 344.

Senate Bill 344 would amend K.S.A. 2005 Supplement 8-1486, as well as 8-2118, and make it against the law to disobey the order or direction of a uniformed school crossing guard invested by law with the authority to direct, control or regulate traffic.

This proposed bill defines a "School Crossing Guard" as any person 18 years of age and older or any person under 18 years of age who is being directly supervised by a person at least 18 years of age, acting with or without compensation and who is authorized under section 3, and amendments thereto, to supervise, direct, monitor or otherwise assist school children at a street or intersection in the vicinity of a school crosswalk or bus stop. There is a fundamental difference between crossing guards that have the authority "to direct, control and regulate traffic" (adults 18 years of age and older) and those who have the "authority to supervise, direct, monitor or otherwise assist school children" (students under 18 acting as a School Safety Patrol). Students under the age of 18 should not be given the authority or be in a position to direct, control or regulate traffic at or near a school crossing. Only properly trained adults, acting as School Crossing Guards, should be given that authority.

We would propose to modify SB 344 to either more clearly define the roll of a student acting as a School Crossing Guard by stating "School Crossing Guards under 18 years of age should be given the authority to direct and control children, not traffic" or by removing the reference to students under the age of 18 altogether. We would also propose to increase the importance of training School Crossing Guards by modifying line 28 in Section 3 from "may provide training" to "should provide training".

KDOT would support SB 344 this bill if amended as previously stated.

Mr. Chairman, I would be pleased to respond to questions.

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Senate Transportation Committee
January 31, 2006
Attachment 3

SENATOR PHILLIP B. JOURNEY

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TRANSPORTATION

CORRECTIONS AND JUVENILE JUSTICE
OVERSIGHT (JOINT)

SOUTH CENTRAL DELEGATION, CHAIR

**Testimony for the Kansas Senate Transportation Committee
Presented January 31, 2006 in Support of Senate Bill #347**

It is a privilege and an honor to have the opportunity to address the Senate Transportation Committee and to offer comments in support of Senate Bill #347.

This was originally filed last year as SB #35 and was passed by the Senate in 2005. SB #35 was comprised of two parts. Those two parts have now been separated to create SB #344 and SB #347. It is intended to amend K.S.A. 8-2118. This bill doubles the fines for the traffic infraction of speeding when in a school zone. A few years ago this body voted to do the same when violators were in a construction zone. Currently, many cities across the State have done the same as intended in this Bill. A few cities have tripled fines for speeding in a school zone, such an amendment would not be opposed by this senator. Adoption of this provision will create consistency in enforcement across the state.

Respectfully submitted,

A handwritten signature in blue ink that reads "Phillip B. Journey". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Senator Phillip B. Journey
26th District

KANSAS

DEPARTMENT OF TRANSPORTATION
DEB MILLER, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

TESTIMONY BEFORE THE SENATE TRANSPORTATION COMMITTEE

REGARDING SENATE BILL 347 RELATING TO DOUBLE FINES IN SCHOOL ZONES

JANUARY 31ST, 2006

Mr. Chairman and Committee Members:

Good morning. My name is David Church, Chief of Traffic Engineering for the Kansas Department of Transportation (KDOT). I appreciate the opportunity to testify on Senate Bill 347.

Senate Bill 347 would amend K.S.A. 2005 Supplement 8-2118 and would double fines if a driver exceeded the maximum posted speed limit within an established school zone.

Reduced speed limits are established within school zones with the goal of increasing student safety while walking or biking to and from school. This is accomplished by asking drivers to reduce their speeds (when appropriate), a maximum of four hours a day, within school zones. When drivers reduce their speeds, it lengthens gaps in traffic for students crossing the roadway. The most effective method of lowering driver's speeds within a school zone is to have a law enforcement presence. Doubling fines for speed limit violations within school zones is an added incentive for drivers to obey the law. If compliance with the posted speed limit is increased within a school zone, the safety of students walking along and crossing the roadway is also increased.

KDOT supports this proposed bill to double fines for speeding within school zones.

Mr. Chairman, I would be pleased to respond to questions.

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Senate Transportation Committee
January 31, 2006
Attachment 5

SENATOR PHILLIP B. JOURNEY

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SOUTH CENTRAL DELEGATION, CHAIR

**Testimony before the Kansas Senate Transportation Committee
Presented January 31st, 2006 in Support of Senate Bill #345**

It is a privilege and honor to have the opportunity to address the Senate Transportation Committee and to offer comments in support of Senate Bill #345.

Senate Bill #345 is intended to amend K.S.A. 8-1557. This statute is commonly known as the basic speed rule. As I'm sure some or all of the members of the committee are aware as a practicing attorney in the State of Kansas for over 20 years, I've worked on over 60,000 criminal and traffic cases. The volume of traffic cases in which I've represent defendants gives me some perspective from which to comment that violations of 8-1557 are rarely alleged compared to specific speeding tickets alleging defendant speeding for example 45 mph in a 35 mph zone. At times, 8-1557 has been alleged when insufficient evidence is available to determine the exact speed of the vehicle. For example, if the radar gun failed to get an adequate lock to verify the speed and the officer just knows they were going to darn fast.

It is used in many circumstances after the fact when an officer comes upon the scene of an accident and reasonably believes that this thing just wouldn't have happened if they hadn't have been doing what the officer suspects they were doing. These citations in many circumstances are issued when in fact the individual is going less than the maximum speed limit, however, due to conditions such as ice, snow, or the characteristics of their vehicle indicate they may be traveling at an inappropriate speed for those conditions. The problem with this statute is that it is enforced when it is not clearly a situation the defendant should have known they were violating the law ahead of the circumstances coming to bear upon them. Someone could actually receive this citation for going 25 mph in a 40 mph zone if the conditions were such that that speed was inappropriate and the conditions were special.

The purpose of this is not to reduce the fine or the prosecution of individuals for violating this statute, but to simply take into account the subjective circumstances of normal prosecution under this statute. It will not count against their driving record for insurance purposes. I believe that the enactment of this bill would be more equable in the application of the law to an individual and not inhibit in any way the effective prosecution of state policies for public safety.

Respectfully submitted,

Senator Phillip B. Journey
26th District

Senate Transportation Committee
January 31, 2006
Attachment 6