

SESSION OF 2005

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2141

As Recommended by House Committee on
Commerce and Labor

Brief*

HB 2141 amends the Workers Compensation Act by establishing guidelines for the determination of whether the burden of proof needed to show that the employee used, had possession of, or was impaired by alcohol or drugs while working is met. The burden of proof for the denial of benefits will be met by establishing any of the following:

- The employer required the drug testing and the policy was set in writing prior to the date of accident;
- The drug testing was done in the normal course of medical treatment for reasons related to the health and welfare of the injured worker;
- The injured worker had given written consent for a drug or alcohol test prior to an accident requiring medical treatment but then refused testing after such an accident. This refusal shall be considered evidence of impairment; however, there must be evidence that the presumed impairment contributed to the accident; and
- The testing was done as a result of federal or state law or a federal or state regulation that requires post accident testing.

Background

Those who testified in support of the bill included delegates on behalf of the Kansas Motor Carriers Association; Teague Electric

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Construction; Wallace, Saunders, Austin, Brown, & Enochs, Chtd., the Kansas Building Industry Workers Compensation Fund; the Kansas Grain and Feed Association; the Kansas Agribusiness Retailers Association, and the Kansas Cooperative Council.

Opposition to the bill was expressed on behalf of the Kansas National Education Association, the Kansas Trial Lawyers Association, the Kansas AFL-CIO, the Kansas Coalition for Workplace Safety, and AARP Kansas.

The fiscal note states that the bill would not affect the Department of Labor's operational revenues or expenditures.