

SESSION OF 2006

SUPPLEMENTAL NOTE ON SENATE BILL NO. 479

As Amended by House Committee of the Whole

Brief*

SB 479 would delete a provision in the statutes regarding preliminary breath screening tests enacted in 2005 from the implied consent law (K.S.A. 8-1001) dealing with the operation of motor vehicles and submitting to tests to determine the presence of alcohol or drugs in a person. The bill also would amend K.S.A. 8-1012 to add an implied consent provision to the law dealing with preliminary testing for the presence of alcohol and drugs in a person. The bill would amend K.S.A. 8-1012 to clarify that an officer must have a reasonable "suspicion" to believe a person has been operating a motor vehicle under the influence of alcohol or drugs before requiring a person to submit a preliminary breath screening test.

The bill also would amend the law regarding cereal malt beverages so that a person, under 21, could be requested to submit to a preliminary screening breath test if a law enforcement officer has reasonable grounds to believe the person has alcohol in their body. The results of the test or a refusal to submit to the test would be admissible in court but would not be per se proof of a violation. The Secretary of Health and Environment would be authorized to adopt rules and regulations.

Background

The bill was supported by the Kansas Highway Patrol and the Kansas Department of Revenue. The Department of Revenue conferee said the problem created by last year's legislation was that placing a reference to preliminary breath testing in K.S.A. 8-1001(a) would appear to make the requirements for "evidentiary" breath testing also apply to "preliminary" breath testing. As a result of last year's amendment, it would now appear that an officer would be required to have reasonable grounds to believe that a person had been operating

*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>

or attempting to operate a vehicle under the influence before requesting a preliminary breath test which is intended to assist the officer in determining whether reasonable grounds exist.

The House Committee amendment would be clarifying in nature.

The House Committee of the Whole inserted cereal malt beverage provisions.

The bill has no fiscal impact.