

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson John Vratil at 9:37 a.m. on February 13, 2001 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Gordon Self, Revisor
Mike Heim, Research
Mary Blair, Secretary

Conferees appearing before the committee:

Bruce Ward, Kansas Judicial Council, Chapter 61 Committee
Elwaine Pomeroy, Kansas Credit Attorneys Association (KCAA)
Ami Hyten, Kansas Judicial Council (KJC)
Donna O'Malley, Coordinator, Car Seat Program, Children's Mercy Hospital, Kansas City
Cheri Sage, American Automobile Association (AAA)
Rosalie Thornburgh, Kansas Department of Transportation (KDOT)
Lynn Dryer Voight, Kansas State Nurses Association (KSNA) and Kansas Emergency Room Nurses Association (KERNA)
Jim Keating, Kansas Safe Kids
Terry Maple, Kansas Highway Patrol
Kelly Wendeln, Chanute, Kansas
Ken Mc Neill, A.B.A.T.E

Others attending: see attached list

Minutes of the February 12th meeting were approved on a motion by Senator O'Connor and seconded by Senator Gilstrap. Carried.

SCR 1604–nonpartisan selection of judges

Written testimony from Don Sallee, District Magistrate Judge Retired, opposing **SCR 1604** was distributed. (attachment 1) as was written testimony from The Kansas Trial Lawyers Association supporting **SCR 1604**. (attachment 2)

SB 67–DUI; concerning penalties

The Chair reviewed the **SB 67** and offered an amendment as follows: for refusal to take a test the license is suspended at a "fixed" one year; for a person <21 years of age who tests out at <.08 and ≥.02 the license is suspended for 30 days unless there is a refusal to take a test or for second and subsequent convictions the penalty is for one year; if the person is <21 years of age and tests out at >.08 the penalty would be fixed at one year. He stated the amendment would be on page 5 of the bill at line 15 where it states...suspend the person's driving privileges for one year, amend that to 30 days so that there would be some proportionality. Following brief discussion, Senator Goodwin moved to amend the bill, Senator Umbarger seconded. Following discussion Senator Oleen made a substitute motion which would delete from the law K.S.A. 8-1567(a) which provides penalties for persons <21 years of age with a blood alcohol content of .02 or more but <.08. Senator Pugh seconded. Carried after a tie-breaking vote by the Chair. Senator Haley moved to pass the bill out favorably as amended, Senator Donovan seconded. Carried.

SB 159–concerning the code of civil procedure for limited actions

Conferee Ward testified in support of **SB 159** stating that the bill will make technical amendments to Chapter 61 and

adopt as an Appendix to Chapter 61 the forms for use under Chapter 61 which were drafted and recommended by the Judicial Council. He further stated that on page 2, L 3-5 was deleted by mistake and should not be stricken. ([attachment 3](#)) Discussion followed.

Conferee Pomeroy offered a conceptual amendment to **SB 159** requesting **SB 236** be worked with this bill briefly discussing why. ([attachment 4](#))

Conferee Hyten described the purpose of an amendment she was offering to **SB 159** which would change Section 2(b)(3). ([attachment 5](#))

Written testimony requesting amendments to **SB 159** were submitted by Paul Davis, Kansas Bar Association ([attachment 6](#)) and Kathy Olsen, Kansas Bankers Association. ([attachment 7](#))

SB 172—regulating traffic; concerning the use of child passenger safety seats and safety belts

Conferee O'Malley testified in support of **SB 172**, a bill which would tighten the requirements of children who are to be restrained by safety seats, would make failure to wear a seat belt a primary offense, and would increase the penalty from \$10 to \$25. The Conferee stated that motor vehicle crashes are a leading cause of death for children and cited statistics to support her contention that the proper use of restraints reduces death and injury to children. ([attachment 8](#))

Conferee Sage testified in support of **SB 172**. She stated that seat belts are the most effective means of reducing the number of serious injuries and fatalities in traffic crashes and she cited survey statistics to support her claim. ([attachment 9](#))

Conferee Thornburgh testified on behalf of Terry Heidner and KDOT in support of **SB 172**. She stated that saving lives and preventing injury is KDOT's goal for requesting this bill and the objective is increased use of occupant protection. She further stated that the bill provides for: primary enforcement of seat belt laws; protection for all passengers; and increased fines for individuals not wearing a seat belt from \$10 to \$25. ([attachment 10](#))

Conferee Voigt testified in support of **SB 172**. She presented personal testimony as an RN caring for vehicular crash victims and provided data to support her claim that wearing safety belts reduces the probability of death and injury by 40-55%. ([attachment 11](#))

Conferee Keating testified in support of **SB 172**. He stated that this bill "closes the gaps in our current Child Passenger Safety law" and provides for primary enforcement of the seat belt law. He cited statistical data to support his claims. ([attachment 12](#))

Conferee Maple testified in support of **SB 172**. He stated that 81% of children in Kansas are protected because their parents use child safety seats. He expressed concern regarding the use of seat belts on children after they have outgrown their safety seats as they often do not fit or are used improperly. He supported the use of booster seats until the child can wear a seat belt safely. He also discussed primary enforcement of the seat belt law citing other states who have similar legislation. ([attachment 13](#))

Written testimony supporting **SB 172** was submitted by: Kansas Public Health Association; ([attachment 14](#)) State Child Death Review Board; ([attachment 15](#)) and Kansas Sheriffs' Association. ([attachment 16](#))

Conferee Kelly testified in opposition to **SB 172**. He discussed his opinion that this bill is nothing more than "forced self-protection" and argued that it is unconstitutional according to the Fourteenth Amendment. He agreed that wearing seat belts is advisable but was concerned about government encroachment on the individual's right to choose. He referenced a news item he wrote which appeared in The Wichita Eagle on Tuesday, January 30, 1973, p.4A. ([no attachment](#))

Conferee McNeill testified in opposition to **SB 172**. He agreed that wearing seat belts saved lives but stated that this bill infringes on his liberty to choose whether or not to wear a seat belt without fear of being stopped by a police officer and he referred to his written testimony where he elaborates on this. ([attachment 17](#))

SB 136—wage garnishment; assignment of account

The Chair briefly reviewed **SB 136** but no action was taken at this time. Written testimony supporting the bill was

submitted by Kansas Association of Financial Services ([attachment 18](#)) and opposing the bill was Kansas Trial Lawyers Association. ([attachment 19](#))

The meeting adjourned at 10:31 a.m. The next meeting is February 14, 2001.