

Approved: 2/10/93
Date

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by Chairperson Ben Vidrickson at 9:00 a.m. on February 4, 1993 in Room 254-E of the Capitol.

All members were present except:

Committee staff present: Hank Avila, Legislative Research Department
Ben Barrett, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
Martha Ozias, Committee Secretary

Conferees appearing before the committee:

Senator Sandy Praeger
Sgt. Terry Maple
Gary Robbins, Executive Director of the Kansas Optometric Association
Chip Wheelan, Kansas Medical Society
Betty Mc Bride, Director, Division of Vehicles

Others attending: See attached list

Senator Praeger addressed the committee on **SB 135** which would approve a motor vehicle accident prevention course which would be offered by the Kansas highway patrol. Sgt. Maple spoke in support of this explaining that it would allow the Patrol to adopt rules and regulations and charge fees to cover costs associated with approval of these programs. It was the intent for this course to be totally fee supported and that those who took the course would get a 5-10% break on their insurance. See Attachment A

The committee then heard from Gary Robbins who expressed support for **SB 129** which concerns vision standards for drivers' licenses. He expressed two concerns, the first being that their members did not feel qualified to determine restrictions on driving. The second related to the controversial final question on the form validating the visual acuity of a person to operate a motor vehicle. He offered an amendment to change some language in the bill. (See Attachment B)

Chip Wheelan spoke in support of the provisions of **SB 129** but suggested that should this bill not pass, that a revision be made in the form to require that the physician or optometrist attest only to the eyesight capability of the person examined. (See Attachment C) He also requested immunity and no liability for them.

Betty Mc Bride expressed support from her Department for granting an exemption to ophthalmologists and optometrists from civil action as a result of submitting a vision report. However, she did not support the requirement to volunteer or report information to the division or the medical advisory board as to the mental, physical or visual condition of any patient or driver license applicant. An amendment was offered for subsection (f). (See Attachment D)

These points were discussed by the committee but no action was taken.

Senator Tiahrt made a motion to amend the date of the effect of **SB 135** from its publication in the "Kansas register" to its publication in the "Statute Books. This was seconded by Senator Emmert. Motion passed as amended.

The meeting was then adjourned.

GUEST LIST

SENATE TRANSPORTATION COMMITTEE

DATE: February 4, 1993

[illegible]

KANSAS HIGHWAY PATROL SUMMARY OF TESTIMONY

**Before the
SENATE TRANSPORTATION AND UTILITIES COMMITTEE**

1993 SENATE BILL 135

**Presented by
Sergeant Terry L. Maple
February 4, 1993**

As introduced, Senate Bill 135 would amend K.S.A. 40-112a and transfer the authority for approving motor vehicle accident prevention courses which qualify automobile insurance policy holders for premium reductions, to the Highway Patrol. The bill would also allow the Patrol to adopt rules and regulations and charge fees to cover costs associated with approval of these programs.

K.S.A. 40-112a was enacted last year and language in the statute did not clearly delineate responsibility or authority regarding approval of motor vehicle accident prevention programs. As a result, considerable confusion regarding methods of approval and approved programs has existed throughout the public, program providers, state agencies and the insurance industry. This confusion has undoubtedly prevented some consumers from receiving the premium discounts that the legislature intended.

Although we cannot predict the actual number of courses that may become available our conversations with other states and other agencies indicate that proper regulation and monitoring of these programs can be accomplished with minimal impact on agency operations. With this in mind, we feel that SB 135 would ultimately enhance highway safety in our state while benefiting Kansas consumers.

SENATE TRANSPORTATION COMMITTEE
SENATE BILL 129 TESTIMONY
February 4, 1993

I am Gary Robbins, Executive Director of the Kansas Optometric Association. In the interest of time, it was decided that I would attempt to address this legislation for both the optometrists and ophthalmologists. Therefore, I appreciate the opportunity to express our views in support of Senate Bill 129.

Senate Bill 129 is a cooperative effort with the Driver Control Bureau. Last fall, John Smith, Administrator of the Driver Control Bureau, and Betty McBride, Director of Vehicles, met with a Joint Committee of Optometrists and Ophthalmologists to discuss our concerns about the driver's license vision form which is attached for your review. These concerns centered on two vision form questions.

The first question involves the section asking: "Should this person's driving privileges be restricted?" Our members are trained to report the results of their vision examinations but have no training to recommend restrictions beyond the wearing of corrective lenses. We don't believe we are qualified to determine restrictions on interstate driving or driving within a 25 mile radius; therefore, we should not be held liable for answering the questions on the form.

The second concern relates to the controversial final question on the form. It states: "In my personal opinion, the visual acuity of this person would allow the safe operation of a motor vehicle at this time." Prior to 1989, the optometrist or ophthalmologist was simply requested to report the results of his/her examination. For the two years prior to the implementation of this new form, we were asked to answer this question on a separate form only if the patient had vision worse than 20/60.

Our members are uncomfortable with deciding whether a person can safely operate a motor vehicle based solely on a vision acuity measurement taken in the exam chair. A person's functional acuity under different illuminations in a moving vehicle may be quite different from the results obtained in the office. Many elderly patients

view the loss of their driver's license as a prison sentence. They lose their independence and freedom when they lose their license. The doctor doesn't want to unnecessarily take away this precious possession, but he/she doesn't want to put the public or the patient in danger if they are not capable of safely operating a motor vehicle. Most of us feel the only valid test is to put the person behind the wheel and evaluate how they perform in actual driving situations. There are some situations where there is no doubt that a person should or should not be allowed to operate a motor vehicle, and the doctor can and should make the decision. Most of these cases are obvious. The problem arises with the patient in the gray area whose vision is just above the 20/60 limit. A drive test is the only way to make that determination.

During our meeting, Betty McBride and John Smith suggested that it would be appropriate to consider legislation providing the optometrist and ophthalmologist with liability protection for completing this form. Last session, legislation was passed to allow physicians protection when making determinations for epilepsy and seizures. S.B. 129 is our attempt to solve the problems I have mentioned.

The Driver Control Bureau has expressed some reservations about the language in the bill on Page 2, Line 1 that begins with: "No optometrist or ophthalmologist..." through Line 4. After conferring with Betty McBride and John Smith, we wish to amend S.B. 129 by deleting the second sentence. A copy of this amendment is attached to this testimony. Betty has agreed to some changes on the vision form which would clarify that the last question would only have to be answered for patients with vision over 20/60. The bureau will also attempt to prepare an explanation of the vision form with some general guidelines for the doctors to use.

Thank you for the opportunity to appear in support of S.B. 129. Rebecca Rice, who represents the Kansas State Ophthalmological Society and I would be glad to answer your questions.

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NOTICE

IF RENEWING: YOU MAY RECEIVE YOUR VISION TEST FREE OF CHARGE AT THE DRIVER LICENSE EXAMINING STATION. If you fail to test 20/40 in at least one eye at the examining station, you will be required to take THIS FORM to a vision specialist. If you fail to test 20/60 in at least one eye by the vision specialist, your report will be forwarded, by the Examiner, to the DIVISION OF VEHICLES.

FOR ANNUAL REVIEWS: Please have this form completed by your eye specialist. Return completed form, within sixty (60) days, to the DIRECTOR OF VEHICLES for review and recommendations regarding your driving privileges.

INSTRUCTIONS FOR LICENSED OPTOMETRIST/OPHTHALMOLOGIST

Please sign this report after completing the questions on the form below. No recommendations or suggestions as to which specialist to visit are given by the Driver License Examiners. The eye specialist assumes no responsibility in making this report other than that of truthfully representing the facts as they appear in his/her professional judgment.

NAME OF APPLICANT: _____ DL# _____
ADDRESS: _____ DOB: _____

APPLICANT'S SIGNATURE _____

VISION FORM TO BE COMPLETED BY OPTOMETRIST OR OPHTHALMOLOGIST

ACUITY	RIGHT EYE	LEFT EYE	BOTH EYES	FIELD OF VISION
PRESENT LENSES	20/	20/	20/	RT OF FIXATION: _____
WITHOUT LENSES	20/	20/	20/	LEFT OF FIXATION: _____
BEST CORRECTION	20/	20/	20/	TOTAL ANGLE: _____

DO PRESENT LENSES PROVIDE FOR BEST POSSIBLE CORRECTION? YES _____ NO _____
ARE NEW LENSES BEING PRESCRIBED? YES _____ NO _____
HAVE THEY BEEN FITTED? YES _____ NO _____
DIAGNOSIS OF VISUAL CONDITION: _____ PROGNOSIS: _____

SHOULD THIS PERSON'S DRIVING PRIVILEGES BE RESTRICTED? YES _____ NO _____
IF YES, PLEASE INDICATE WHICH RESTRICTIONS BELOW APPLY:

- | | |
|--------------------------------|---|
| 1. _____ CORRECTIVE LENSES | 5. _____ WITHIN CITY LIMITS |
| 2. _____ DAYLIGHT HOURS ONLY | 6. _____ LICENSED DRIVER FRONT SEAT |
| 3. _____ NO INTERSTATE DRIVING | 7. _____ DRIVING WITHIN A 25 MILE RADIUS OF |
| 4. _____ OUTSIDE BUSINESS AREA | HOME |

AN ANNUAL VISION REPORT SHOULD BE REQUIRED: YES _____ NO _____

AN ACTUAL TEST OF THE PATIENT'S DRIVING ABILITY SHOULD BE ADMINISTERED: YES _____ NO _____

IN MY PERSONAL OPINION, THE VISUAL ACUITY OF THIS PERSON WOULD ALLOW THE SAFE OPERATION OF A MOTOR VEHICLE AT THIS TIME:
YES _____ NO _____

Name of Optometrist/Ophthalmologist

Address

Phone

Signature of Optometrist/Ophthalmologist

DATE

1 ~~report. No optometrist or ophthalmologist shall be required by law~~
2 ~~to volunteer or report information to the division or to the medical~~
3 ~~advisory board as to the mental, physical or visual condition of any~~
4 ~~patient or driver's license applicant.~~

5 Sec. 2. K.S.A. 8-295 is hereby repealed.

6 Sec. 3. This act shall take effect and be in force from and after
7 its publication in the statute book.

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2/4/93
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KANSAS MEDICAL SOCIETY

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February 4, 1993

To: Senate Transportation and Utilities Committee

From: Kansas Medical Society

Subject: Senate Bill 129 as Introduced

The Kansas Medical Society enthusiastically supports the provisions of SB 129. The liability protections are nearly identical to other sections of the statutes governing motor vehicle operator licenses but are specific to eye examinations.

If the Legislature fails to pass SB 129, then the Division of Vehicles should revise the form that ophthalmologists and optometrists are expected sign which attests to the patient's driving ability. Instead, the form should require that the physician or optometrist attest only to the eyesight capability of the person examined.

Thank you for considering our comments.

STATE OF KANSAS



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Department of Revenue
Division of Vehicles

To: Honorable Ben Vidricksen, Chairman
Members of the Senate Committee on Utilities and
Transportation

From: Betty McBride, Director, Division of Vehicles
Kansas Department of Revenue

Date: February 4, 1993

Mr. Chairman, Members of the Committee,

My name is Betty McBride. I am the Director of the Division of Vehicles, and I appear before you on behalf of the Kansas Department of Revenue in regards to Senate Bill 129.

The department supports the position taken by Kansas ophthalmologists and optometrists to amend K.S.A. 8-295 (f) granting them an exemption from civil action as a result of submitting a vision report to the division of vehicles.

However, the department cannot support lines (1) through (4) of page 2 which further exempts optometrists or ophthalmologists from being required by law to volunteer or report information to the division or the medical advisory board as to the mental, physical or visual condition of any patient or driver license applicant. Our concerns are twofold: First of all, the division is entrusted with the responsibility of licensing only qualified drivers, thus insuring the safety of all drivers on Kansas roads and highways. Without being able to require an optometrist or ophthalmologist to provide vision information, the divisions ability to accurately evaluate whether or not to grant a driver license is severely hampered. The second concern is K.S.A. 8-247(c), which grants authority to the division to require an applicant to submit to any additional examination necessary to determine the applicants ability to safely operate a motor vehicle. If the applicant is required to submit a vision report but the attending optometrist or ophthalmologist refuses to submit the result of their examination to the division, the division will have no choice but to refuse to issue a license to the applicant.

The responsibility for determining whether or not to issue a license rests with the division of vehicles, the director of vehicles and the medical advisory board. The report submitted by an optometrist or ophthalmologist

is but one factor considered in the decision making process. Ultimately, either the director of vehicles or medical advisory board, or the driver license examiner who administers the drive test will make the final determination on whether to issue a license and any restrictions that may be needed.

Also, I urge you to amend Senate Bill 192 by striking the following language in subsection (f): *"No optometrist or ophthalmologist shall be required by law to volunteer or report information to the division or to the medical advisory board as to the mental, physical or visual condition of any patient or driver's license applicant."*

I stand for your questions.