

Approved: February 8, 1999
Date

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Senator Lana Oleen at 11:12 a.m. on January 28, 1999 in Room 254-E of the Capitol.

All members were present:

Committee staff present: Russell Mills, Legislative Research Department
Theresa Kiernan, Revisors of Statutes
Judy Glasgow, Committee Secretary

Conferees appearing before the committee: Carla Stovall, Attorney General
Rae Ann Davis, Legislative Research Department
Don Myer, Kansas Commission of Veterans Affairs

Others attending: See Attached Sheet

Chairman Oleen noted that over the last year a special task force, established by the Attorney General, had looked at a number of issues regarding alcohol and driving and as a result of that task force Carla Stovall, Kansas Attorney General, would like to introduce several bills in this committee.

Carla Stovall ask for bill introduction of the Far-reaching Alternation of Traffic and Alcohol Laws (FATAL) Task Force. There are nine different bills that are to be introduced this Legislative Session as a result of the study. (Attachment 1). There were three reasons for the formation of the task force 1) there is no point in time and no particular number of DUI's where the drivers license will not be returned; 2) the number one complain of law enforcement officers in the state is administrative hearings for DUI's and 3) based on a personal case history.

1. DUI criminal Penalties and Administrative Sanctions to be increased across the board. This would take away the 5 year window that a drivers history are looked - She indicated it should be a life time of driving; there should be a penalty for risking a child's safety; a penalty for refusal to take a breath, blood or urine test; DUI diversions would be limited to one per lifetime; and standardized journal entry required to be completed by all municipal and district courts on all misdemeanor DUI convictions.
2. Aggravated Battery when fleeing or attempting to elude a police officer or boating under the influence.
3. DUI by any person less than 21 years of age
4. Boating and DUI change BAC standard, Add .02 BAC standard for persons under 21 and submit to PBT test
5. Administrative hearing issues to clarify that The testing equipment and persons is certified
6. Impoundment and/or immobilization required for arrest for driving while suspended and while revoked
7. Alcohol and drug driver education minimum of four hours of alcohol and drug education required before driver's license can be issued.
8. Alcohol server training mandates mandatory alcohol training for all employees and managers of state licensed establishments which include retail liquor stores, restaurants, clubs and bars
9. KEG registration require all kegs and other large containers of alcoholic or cereal malt beverages be registered when purchased in order to assist in identifying persons illegally purchasing

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E
Statehouse, at 11:12 a.m. on January 28, 1999.

Senator Jones requested information on the 6th bill, the vehicle impounded would only the driver's vehicle not a vehicle belonging to another person.

Senator Harrington inquired about the costs of item 7, concerning driver education on alcohol and drugs. Attorney General Stovall stated that this would be charged to the person applying for the license.

Senator Biggs moved that the introduction of the bills. The motion was seconded by Senator Vratil. Motion carried.

Senator Oleen requested the introduction of a bill on legislative compensation and benefits which addresses the issue of the current retirement system replacing it with a deferred compensation plan; a salary increase for legislators, and constitute a voucher allowance per month for constituent services when not in session Senator Becker moved for introduction of the bill. Senator Vratil seconded the motion. Motion carried.

Chairman Oleen introduced Rae Anne Davis, Legislative Research, who presented the Interim Report of the Joint Committee on State Building Construction Study Topic need for state-operated veterans cemetery (A copy of the report is available at Legislative Research Department), and a background information on veterans cemetery topic (Attachment 2). This topic was the result of several individual legislators who concerned about the lack of burial space available in existing cemeteries designated for veterans. The conclusion of the committee was to introduce legislation that would authorize the Kansas Commission of Veterans Affairs to develop a plan to establish, operate and administer one of more state veterans cemeteries in Kansas. The result of this study was the introduction of **SB 19**.

There are several types of veterans cemeteries; national cemeteries for veterans, which any honorably discharged veteran with wartime service is eligible; Military Cemeteries run by the Department of Defense which are open only to those who die while on active duty or to military retirees; and state veterans' cemeteries, which are open to veterans, spouses, and eligible dependents.. Kansas has two national cemeteries: one at Leavenworth and one at Fort Scott. There are two military cemeteries; Fort Riley which will close in mid-1999 and Fort Leavenworth..

The Joint Committee on State Building Construction ask the Kansas Commission on Veterans Affairs (KCVA) to look at this issue and report back to the committee on a state veterans cemetery for the state of Kansas. The KCVA reported that one of the factors that they considered was that although the VA picks up 100 percent of the cost of construction through a grant, the state must pick up the cost of staffing and operating costs of the cemetery. The KCVA's recommendation estimates that a minimum of four sites would be necessary to provide interment services to eligible veterans in areas not presently served by the national veterans cemetery system. The proposed locations would be at the Kansas Soldier's Home at Ft. Dodge, the Kansas Veterans Home at Winfield, Fort Riley and an undetermined location in northwestern part of the state. One would be opened each year beginning with the year 2000. The first would be opened at Fort Dodge in the FY 2000; the second at Fort Riley, the third at Winfield and the fourth at the northwest location.

Don Myer said that the state did have a state veteran cemetery at Fort Dodge presently, it does not participate in the VA State veterans program

In response to a question from Senator Becker concerning the number of people to be buried each year in these cemeteries; Don Myer, Commissioner of the KCVA stated that it is expected that there will be 5,000 to 6,000 veterans deaths each year for the next 5 years and then it will drop off rapidly. In other states that have state veterans cemeteries twenty five percent of qualified veterans use the cemeteries, but in Kansas he would expect about twenty % of those veterans to utilize these facilities. This will be about 1100 to 1200 veterans using the cemeteries per year.

CONTINUATION SHEET

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Questions concerning choice of locations for the state veterans cemeteries and eligibility for use of cemeteries were expressed by committee members. Don Myer stated that the availability of state land and fact that state employees would already be available to operate and maintain the system were taken into consideration in the selection of sites.

Chairman Oleen asked for committee action on approving minutes for the committee Meeting on January 25. Senator Harrington moved that the minutes be approved. Senator Biggs seconded the motion. The motion passed.

The meeting adjourned at 11:55 a.m. The next meeting of the committee is scheduled for February 1, 1999.

SENATE FEDERAL & STATE AFFAIRS COMMITTEE
GUEST LIST

DATE: Jan 28, 1999

NAME	REPRESENTING
Randy Scott	KCVA
Donna Deck	KCVA
DON A. MYER	KCUA
DARRELL BEULKEN	KANSAS VETERANS of FOREIGN WARS
Ann A. Campbell	KRLDA
Rebecca Fier	KRLDA & KCVA KCVA
Ralph Snyder	Ks American Legion
Jamon Christensen	Ks American Legion
Mack Smith	Ks St Bd of Mortuary Arts
Craig J Spomer	Fatal Task Force
John Noh	AG's office - FATAL
Barbara Hymek	NRIW / KCA
Brian Jennings	Kansas Highway Patrol - FATAL
Tuck Dwyer	Ks Wine & spirits wholesalers
John McCarty	Wichita
Ann McCarty	Wichita
Mary Tutsch	AG's office
Sheila Kostas	CHPPKM
Jane Johnson	Ks Comm. Alcohol Safety Action Projects

Star Sutton
Tiffany Ball
Pam Scott
Don Cawley
Nancy Lindberg

KDHE (Breath Alcohol)
Attorney General's Office
Kansas Funeral Directors Assn
Division of the Budget
Atty Gen.



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CARLA J. STOVALL
ATTORNEY GENERAL

**Attorney General Carla Stovall's
Far-reaching Alteration of Traffic and Alcohol Laws
(FATAL) Task Force**

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Criminal:

Brian Leininger, Kansas Highway Patrol, Topeka
Brad Ambrosier, Attorney, Elkhart
Tim Holmes, Russell County Sheriff, Russell
Don Kaufman, Moundridge
Terry Malone, Dodge City City Attorney, Dodge City
Craig Spomer, Wabaunsee County Attorney, Alma
Max Sutherland, MADD, Topeka

Administrative:

Mike Watson, Wichita Police Chief, Wichita
Jim Keller, Department of Revenue, Topeka
Mary Ann Khoury, DUI Victim Center of Kansas, Wichita
Sergeant Charlie Kohler, Kansas Highway Patrol, Salina
Senator Lana Oleen, Manhattan
Honorable John Sanderson, District Court Judge, Emporia
Stan Sutton, Kansas Department of Health and Environment, Topeka

Prevention:

Rosalie Thornburgh, Bureau of Traffic Safety, Topeka
Captain Gayle Beth, Kansas City Police Department, Kansas City
R.E. "Tuck" Duncan, Topeka
Representative David Haley, Kansas City
Gene Johnson, Sunflower Alcohol Safety Action Project, Inc., Topeka
David Nance, City Council, Pittsburg
Rick Wilborn, Alliance Insurance, McPherson

Staff:

Juliene Maska, Victims' Rights Coordinator, Topeka
Jane Nohr, Assistant Attorney General, Topeka
Nancy Lindberg, Assistant to the Attorney General, Topeka

Sen. Federal & State Affairs Comm
Date: 1-28-99
Attachment: # 1-1



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ATTORNEY GENERAL CARLA STOVALL'S FAR-REACHING ALTERATION OF TRAFFIC AND ALCOHOL LAWS TASK FORCE LEGISLATIVE RECOMMENDATIONS

JANUARY 1999

I. A. DUI Criminal Penalties and Administrative Sanctions

Current

Proposed

1st CONVICTION w/i 5 yrs: B Misdemeanor

1st CONVICTION *in lifetime* B Misdemeanor

Criminal:

48 hrs - 6 months jail or
100 hrs community service
\$200 - \$500 fine
Complete ADSAP educ. or treatment

48 hrs- 6 months jail or
100 hrs community service
\$500 - \$1,000 fine
Complete ADSAP educ. or treatment

Administrative:

License suspended 30 days/and restricted
330 days for test failure
License suspended 1 yr for refusal
License reinstatement fee \$50

License suspended 30 days/and restricted
330 days for test failure
License suspended for 1 yr for refusal
License reinstatement fee \$200

2nd CONVICTION w/i 5 yrs: A Misdemeanor

2nd CONVICTION *in lifetime* A Misdemeanor

Criminal:

48 hrs + 3 days work release - 1 yr
(90 days minimum sentence)

\$500 - \$1,000 fine
Ignition interlock required if BAC
is .15 or above after admin.
suspension expires

10 days - 1 yr (90 days minimum sentence)
**Work release/house arrest permitted after
10 days.**
\$1,000 - \$1,500 fine
Ignition interlock required if BAC is .15
or above after admin. suspension expires

No treatment required unless
released on probation/parole

***Mandatory inpatient or outpatient
treatment (not education)***

Administrative:

License suspended 1 yr for failure
License suspended 1 yr for refusal
License reinstatement fee \$50

License suspended 1 yr for failure
License suspended **2 yrs** for refusal
License reinstatement fee **\$400**

3rd CONVICTION w/i 5 yrs: Felony crime(nongrid) 3rd CONVICTION ***in lifetime***

Criminal:

48 hrs + 88 days work release - 1 yr
(90 days minimum sentence)
\$1,000 - \$2,500 fine
Ignition interlock required if BAC is
.15 or above after admin. suspension
expires
Optional treatment

***120 days - 1 yr (work release/house
arrest permitted after 120 days)
\$1,500 - \$2,500 fine
Ignition interlock required if BAC is
.15 or above after admin. suspension
expires
Mandatory inpatient or outpatient
treatment (not education)***

Administrative:

License suspended 1 yr for failure
License suspended 1 yr for refusal
License reinstatement fee \$50

License suspended 1 yr for failure
License suspended **3 yrs** for refusal
License reinstatement fee **\$600**

4th CONVICTION w/i 5 yrs: Felony crime(nongrid) 4th CONVICTION ***in lifetime***

Criminal:

48 hrs + 88 days work release - 1 yr
(90 days minimum sentence)
\$1,000 - \$2,500 fine
Court can revoke license tag or
temporary registration for one year
Optional treatment

***15 months imprisonment in DOC
before parole
\$2,500 fine
Court can revoke license tag or
temporary registration for one year
Mandatory inpatient or outpatient
treatment (not education)***

Administrative:

License suspended 1 yr for failure
License suspended 1 yr for refusal
License reinstatement fee \$50

License suspended 1 yr for failure
License revoked 10 yrs for refusal
License reinstatement fee **\$800**

5th CONVICTION w/i 5 yrs: Felony crime (nongrid) 5th CONVICTION *in lifetime*

Criminal:

48 hrs + 88 days work release - 1 yr (90 days minimum sentence)	<i>15 months imprisonment in DOC before parole</i>
\$1,000 - \$2,500 fine	<i>\$2,500 fine</i>
Court can revoke license tag or temporary registration for one year	Court can revoke license tag or temporary registration for one year
Optional treatment	<i>Mandatory inpatient or outpatient treatment (not education)</i>

Administrative:

License suspended 1 yr for failure	<i>License revoked for lifetime</i>
License suspended 1 yr for refusal	<i>License revoked for lifetime</i>
License reinstatement fee \$50	<i>Reinstatement not permitted</i>

B. Risking A Child's Safety (K.S.A. 8-1567)

- Enhance the applicable DUI penalty by 30 days for persons who have a child under 14 years of age in the vehicle at the time they are driving under the influence of alcohol or drugs.

C. DUI Test Refusal and Preliminary Breath Test (PBT) Refusal

- Refusal to take a breath, blood or urine test as requested by a law enforcement officer would be a class B misdemeanor. (Under current law, this is administrative only.)
- Refusal to take PBT test would be increased from a traffic infraction to a class C misdemeanor.

D. DUI Diversions

- DUI diversions shall be limited to one per lifetime.

E. Journal Entry

- Standardized Journal Entry required to be completed by all municipal and district courts on all misdemeanor DUI convictions.

II. A. Aggravated Battery (K.S.A. 21-3414)

- In response to *State v. Huser*, S.C.80-128, add provisions for unintentionally causing bodily harm or great bodily harm to another person while committing or attempting to commit a violation of driving while under the

influence of alcohol or drugs, fleeing or attempting to elude a police officer or boating under the influence of alcohol or drugs.

- Penalties: If great bodily harm is inflicted, severity level 6 person felony; if bodily harm is caused whereby great bodily harm can be inflicted, severity level 9 person felony; if bodily harm is inflicted, class A person misdemeanor.

B. Absolute Liability (K.S.A. 21-3204)

- Add felony offenses for driving under the influence of alcohol and drugs, driving while suspended and driving while habitual violator to the provisions allowing for absolute liability offenses.

III. DUI By Any Person Less Than 21 Years Of Age (K.S.A. 8-1567a)

- Amend the probable cause standard from "reasonable grounds to believe the person was operating a motor vehicle while under the influence of alcohol or drugs" to "reasonable grounds to believe the person has been operating or *attempting* to operate a vehicle while *having alcohol or drugs in such person's system.*"
- Criminal penalty: traffic infraction and \$200.00 fine.
- If a change is made in K.S.A.8-1567a to base the test request upon "reasonable grounds to believe that the person has alcohol in his or her person," there should be a change in the language in K.S.A. 8-1001 and 8-1002 to adapt to that change, since it is the same test.

IV. Boating and DUI (K.S.A. 32-1131)

- Change the BAC standard to .08 from .10.
- Add .02 BAC standard for persons under 21 years of age.
- Submit to PBT test and refusal to take test would be a class C misdemeanor.

V. Administrative Hearing Issues

- Amend administrative hearing procedures in K.S.A. 8-1002(h)(2) to clarify that the testing equipment and person operating the testing equipment is certified by KDHE and the testing protocols are in accordance with KDHE. Also, amend the language stating "the person was operating a vehicle" to "the person was operating or *attempting* to operate a vehicle."
- Amend K.S.A. 65-1,107(a) and (b) to add "*testing protocol.*"
- Allow a \$50 subpoena fee to be charged for each law enforcement officer subpoenaed to attend and or testify in the administrative hearing. The law enforcement agency would receive the fee.
- Allow for administrative hearings to be conducted telephonically and/or by video at the discretion of Kansas Department of Revenue.

- Set out specific documents and evidence which the licensee is to have access to at the administrative hearing (or prior to the hearing).
- The signed statement of the officer, (DC27), would represent the testimony of the officer and would stand on its own except in the event the officer has been subpoenaed.
- Amend K.S.A. 8-1002(k) which requires a hearing to be held within 30 days and to not be dismissed "absent a showing of *legal* prejudice".
- Change references within K.S.A. 8-1002, such as in 8-1002(g) to "*calendar* days" instead of "days."
- Similar changes should be made in the Uniform Commercial Driver's License Act to reflect those set out above, as appropriate.

VI. Impoundment and/or Immobilization

Required for:

- Arrest for driving while suspended and driving while revoked.
- Length of impoundment and/or immobilization would be 30 days.
- Local jurisdictions would choose which method to implement.

VII. Alcohol and Drug Driver Education

- Minimum of four hours of alcohol and drug education required before driver's license can be issued.
- Applies to each person who is issued an original Kansas driver's license prospectively.
- Education program must be conducted by a certified community-based alcohol and drug action program.
- Cost will not exceed \$35.00 per applicant.

VIII. Alcohol Server Training

Mandates mandatory alcohol training for all employees and managers of state licensed establishments which includes retail liquor stores, restaurants, clubs and bars.

- Must receive training once every three years.
- Employees would receive a "server" card upon completion of training.
- Background check would be completed prior to receipt of card.
- Cost of server card not to exceed \$25 per person.
- ABC would regulate.

IX. KEG Registration

- Require all kegs and other large containers of alcoholic or cereal malt beverages be registered when purchased in order to assist in identifying persons illegally purchasing and those persons selling to underaged persons.

- Records of keg purchases must be kept by retailers for 6 months and made available to law enforcement officers upon request.
- Illegal to remove or alter the keg identification number or possess a container without the number. Class B nonperson misdemeanor.
- Excludes kegs purchased by other drinking establishments, private clubs and caterers.

BACKGROUND INFORMATION ON VETERANS CEMETERY TOPIC**NATIONAL CEMETERIES**

- run by VA
- honorably discharged veteran with war time service eligible for burial
- open to vets from across country
- Leavenworth National Cemetery expected to be full in 2015; Fort Scott National Cemetery expected to be open until 2030 or later
- VA focusing new cemetery efforts on more populous states
- possible expansion of Leavenworth National Cemetery by razing old hospital building (entirely federally funded)

MILITARY CEMETERIES

- run by DOD; maintained by posts until they fill
- open only to those who die on active duty or to military retirees
- two in Kansas: Fort Riley and Fort Leavenworth

STATE VETERANS CEMETERY PROGRAM

- Kansas not currently participating
- VA pays 100 percent of construction costs; states pay 100 percent of operating expenses
- Kansas Soldiers' Home at Fort Dodge is applying for construction grant currently

NEED FOR ACTION

- veteran death rates in Kansas to peak in 2003
- rate of deaths greater than capacity of the national and military cemeteries currently existing in Kansas
- demand for burial at veterans cemeteries still unknown

POSSIBLE CONSIDERATIONS**FORT RILEY**

- military cemetery expected to close in mid 1999
- possibility of establishing state veterans cemetery on federally donated land
- study costs of \$80,000; no existing state employees at location

KANSAS SOLDIERS' HOME AT FORT DODGE

- currently applying for VA grant
- would create state veterans cemetery by expanding within existing state resources
- would be at existing state operated facility

KANSAS VETERANS HOME AT WINFIELD

- no study begun
- would be at existing state operated facility