

STATE OF KANSAS

HOUSE OF REPRESENTATIVES

MR. CHAIRMAN:

I move to amend **SB 133**, as amended by House Committee, on page 1, in line 15, after "(b)" by inserting "(1) Except as provided in subsection (b)(2), a"; in line 16, after "C" by inserting "nonperson"; following line 17, by inserting:

"(2) A violation of this section by a person 18 or more years of age but less than 21 years of age who has previously entered into a diversion agreement upon a second alleged violation of the acts prohibited by this section pursuant to subsection (f) is a class A nonperson misdemeanor. In addition, the court shall order the division of vehicles to suspend the driving privileges of such offender for one year. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for one year, whether or not that person has a driver's license.";

On page 2, in line 38, before "A" by inserting "Except as provided in subsection (f)(3),"; in line 39, after "prosecution" by inserting "as provided in subsection (f)(2)";

On page 3, in line 24, after "(2)" by inserting "Except as provided in subsection (f)(3), any person seeking immunity from criminal prosecution shall enter into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of the acts prohibited by this section. If such person is less than 18 years of age, the prosecuting attorney shall notify such person's parents or guardians of the diversion agreement. Such diversion agreement shall include a stipulation, agreed to by the defendant and the prosecuting attorney, of the facts upon which the charge is based and a provision that if the defendant fails to fulfill the terms of the specific diversion agreement and the criminal proceedings on the complaint are resumed, the proceedings, including any proceedings on appeal, shall be conducted on the record of the stipulation of facts relating to the complaint. In addition,

the agreement shall include a requirement that the defendant perform community service specified by the agreement, not to exceed 40 hours. A diversion agreement shall provide that if the defendant fulfills the obligations of such diversion agreement, as determined by the prosecuting attorney, the prosecuting attorney shall act to have the criminal charges against the defendant dismissed with prejudice. The diversion agreement shall include specifically the waiver of all rights under the law or the constitution of the state of Kansas or the constitution of the United States to a speedy arraignment, preliminary examinations and hearings, a speedy trial and waiver of the rights to counsel and trial by jury.

(3) Any person seeking immunity from criminal prosecution shall be eligible to enter into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of the acts prohibited by this section only upon a first or second alleged violation of the acts prohibited by this section.

(4) "

_____ District.