

Journal of the Senate

FORTY-THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS
Friday, March 11, 2005—9:30 a.m.

The Senate was called to order by President Stephen Morris.
The roll was called with thirty-one senators present.
Senators Allen, Barnett, Brungardt, Gilstrap, Haley, V. Schmidt, Schodorf, Wagle and Wilson were excused.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Today, O God, I trust You will permit me to paraphrase the prayer that Jesus taught us to pray as You might like for us to pray as legislators:

Our Father Who art in heaven,
Hallowed be thy Name. Thy kingdom come, Thy will be done, in Kansas as it is in heaven. Give us this day our General Orders, and forgive us the sins of our party as we forgive the sins of the other party. And lead us not into a stalemate, but deliver us from an extended session. For thine are the conference committees, the concurrent resolutions, the final actions, and the wrap-up session...until Sine die.

I pray in the name of Jesus Christ,

AMEN

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill and resolution were referred to Committees as indicated:

Committee of the Whole: **SCR 1609**.

Ways and Means: **SB 294**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Lee introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1829—

A RESOLUTION congratulating and commending the 2004 Smith Center High School football team.

WHEREAS, The Smith Center High School football team won a hard-hitting and well coached game to become the 2004 Class 2-1A football champions. The team defeated Pittsburg/St. Mary's-Colgan 34 to 14 at Lewis Field in Hays on November 27. The Smith Center Redman had a perfect 14 to 0 season, a team record for the greatest number of wins in a season; and

WHEREAS, The Smith Center Redmen did what other teams had not been able to do for some time—defeat the Colgan Panthers, a team which went into the championship game with a 66 game undefeated record and with a series of four consecutive state championships; and

WHEREAS, This was not the first state championship for veteran coach Roger Barta. Twenty-five years ago his team won its first state championship in the same stadium, and

several members of that championship team were on hand to cheer on and congratulate this year's team. Coach Barta also coached Smith Center championship teams in Class 3A in 1982, 1986 and 1999 and had state runner-up teams in 1977 and 1999: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the 2004 Smith Center High School football team and head coach Barta for their undefeated season and for being the 2004 state Class 2-1A champions; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Brian Boeve, Principal, Smith Center High School, P.O. Box 329, Smith Center, KS 66967.

On emergency motion of Senator Lee **SR 1829** was adopted unanimously.

President Morris and members of the Senate welcomed and congratulated team members and coaches, who were guests of Senator Lee.

REPORT ON ENROLLED BILLS

SR 1828 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 11, 2005.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **HB 2140** be amended on page 7, in line 16, by striking "or" and inserting "and"; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2109** be amended on page 1, in line 17, after "1968" by inserting "unless such motor vehicle was manufactured or assembled with safety belts"; in line 24, after "1968" by inserting "unless such motor vehicle was manufactured or assembled with safety belts"; after line 29, by inserting the following:

"Sec. 3. K.S.A. 8-1344 is hereby amended to read as follows: 8-1344. (a) Every driver as defined in K.S.A. 8-1416, and amendments thereto, who transports a child under the age of ~~14~~ 18 years in a passenger car as defined in K.S.A. 8-1343a, and amendments thereto, on a highway as defined in K.S.A. 8-1424, and amendments thereto, shall provide for the protection of such child by properly using:

~~(a)~~ (1) For a child under the age of four years a child passenger safety restraining system that meets or exceeds the standards and specifications contained in federal motor vehicle safety standard no. 213 ~~in effect on July 1, 1997; or~~

(2) for a child four years of age, but under the age of eight years and who weighs less than 80 pounds or is less than 4 feet 9 inches in height, a child passenger safety restraining system that meets or exceeds the standards and specifications contained in federal motor vehicle safety standard no. 213; or

~~(b)~~ (3) for a child ~~four~~ eight years of age but under the age of ~~14~~ 18 years or who weighs more than 80 pounds or is more than 4 feet 9 inches in height, a safety belt manufactured in compliance with federal motor vehicle safety standard no. 208, ~~except that if the number of children subject to this requirement exceeds the number of passenger securing locations available for use by children affected by this requirement, and all of those securing locations are in use by children, then there is not a violation of this section.~~

(b) If the number of children subject to the requirements of subsection (a) exceeds the number of passenger securing locations available for use by children affected by such requirements, and all of these securing locations are in use by children, then there is not a violation of this section.

(c) The provisions of subsection (a)(2) shall not apply in any seating position where only a lap belt is available.

Sec. 4. K.S.A. 8-1345 is hereby amended to read as follows: 8-1345. (a) It shall be unlawful for any driver to violate the provisions of K.S.A. 8-1344, and amendments thereto, and upon conviction such driver shall be punished by a fine of ~~\$20~~ \$60. The failure to provide a child safety restraining system or safety belt for more than one child in the same passenger car at the same time shall be treated as a single violation. Any conviction under the provisions of this subsection shall not be construed as a moving traffic violation for the purpose of K.S.A. 8-255, and amendments thereto.

(b) ~~For dollars of~~ The \$60 fine provided for in subsection (a) ~~and court costs assessed under K.S.A. 26-172a, and amendments thereto;~~ shall be waived if the driver convicted of

violating subsection ~~(a)~~ (a)(1) or (a)(2) of K.S.A. 8-1344, and amendments thereto, provides proof to the court that such driver has purchased or acquired an approved child passenger safety restraining system.

(c) No driver charged with violating the provisions of this act shall be convicted if such driver produces in the office of the arresting officer or in court proof that the child was ~~14~~ 18 years of age or older at the time the violation was alleged to have occurred.

(d) Evidence of failure to secure a child in a child passenger safety restraining system or a safety belt under the provisions of K.S.A. 8-1344, and amendments thereto, shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.

(e) *From and after the effective date of this act, and prior to July 1, 2006, a law enforcement officer shall issue a warning citation to anyone violating subsection (a)(2) of K.S.A. 8-1344, and amendments thereto.*;

And by renumbering the remaining sections accordingly;

Also on page 1, in line 30, after "8-1343a" by inserting ", 8-1344, 8-1345";

In the title, in line 10, after "8-1343a" by inserting ", 8-1344, 8-1345"; and the bill be passed as amended.

Also, **HB 2122**, as amended by House Committee of the Whole, be amended on page 12, in line 4, by striking "\$500" and inserting "\$1,000"; in line 5, by striking "\$400" and inserting "\$1,000"; in line 6, by striking "\$600" and inserting "\$1,500"; in line 7, before "\$25" by inserting "except bobcats,."; in line 8, after the stricken semicolon by inserting "bobcats, \$200,."; in line 9, before "wild" by inserting "(6)"; also in line 9, by striking "\$75" and inserting "\$200"; in line 10, by striking "(6)" and inserting "(7)"; in line 11, by striking "\$200" and inserting "\$500"; in line 12, by striking "(7)" and inserting "(8)"; in line 13, by striking "\$20" and inserting "\$50"; in line 15, by striking "(8)" and inserting "(9)"; in line 19, by striking "(9)" and inserting "(10)"; also in line 19, by striking "\$10" and inserting "\$25"; in line 20, by striking "\$8" and inserting "\$16"; in line 21, by striking "(10)" and inserting "(11)"; also in line 21, by striking "\$2" and inserting "\$4"; in line 22, by striking "(11)" and inserting "(12)"; in line 23, by striking "\$200" and inserting "\$500"; in line 24, by striking "(12)" and inserting "(13)"; also in line 24, by striking "\$10" and inserting "\$25";

On page 19, after line 12 by inserting the following:

"Sec. 21. K.S.A. 65-4150 is hereby amended to read as follows: 65-4150. As used in this act:

(a) "Controlled substance" means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.

(b) "Deliver" or "delivery" means actual, constructive or attempted transfer from one person to another, whether or not there is an agency relationship.

(c) "Drug paraphernalia" means all equipment, ~~products~~ and materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the uniform controlled substances act. "Drug paraphernalia" shall include, but is not limited to:

(1) Kits used or intended for use in planting, propagating, cultivating, growing or harvesting any species of plant which is a controlled substance or from which a controlled substance can be derived.

(2) Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.

(3) Isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance.

(4) Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.

(5) Scales and balances used or intended for use in weighing or measuring controlled substances.

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, which are used or intended for use in cutting controlled substances.

(7) Separation gins and sifters used or intended for use in removing twigs and seeds from or otherwise cleaning or refining marihuana.

(8) Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled substances.

(9) Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of controlled substances.

(10) Containers and other objects used or intended for use in storing or concealing controlled substances.

(11) Hypodermic syringes, needles and other objects used or intended for use in parenterally injecting controlled substances into the human body.

(12) Objects used or intended for use in ingesting, inhaling or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body, such as:

(A) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

(B) water pipes;

(C) carburetion tubes and devices;

(D) smoking and carburetion masks;

(E) roach clips (objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand);

(F) miniature cocaine spoons and cocaine vials;

(G) chamber pipes;

(H) carburetor pipes;

(I) electric pipes;

(J) air-driven pipes;

(K) chillums;

(L) bongs; and

(M) ice pipes or chillers.

(d) "Person" means any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association or other legal entity.

(e) "Simulated controlled substance" means any product which identifies itself by a common name or slang term associated with a controlled substance and which indicates on its label or accompanying promotional material that the product simulates the effect of a controlled substance.";

And by renumbering the remaining sections accordingly;

Also on page 19, in line 14, by striking "and" and inserting a comma; also in line 14, after "44-5,125" by inserting "and 65-4150";

In the title, in line 11, after the semicolon by inserting "controlled substances,;" in line 12, after "40-2,118" by inserting a comma; in line 13, by striking the first "and"; also in line 13, after "44-5,125" by inserting "and 65-4150"; and the bill be passed as amended.

Committee on Natural Resources recommends **HB 2052** be passed.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Monday, March 14, 2005.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks*.

PAT SAVILLE, *Secretary of the Senate*.

