

Approved: 3-17-99  
Date

## MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Michael R. O'Neal at 3:30 p.m. on February 10, 1999 in Room 313-S of the Capitol.

All members were present except:

Representative Andrew Howell - excused

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department  
Avis Swartzman, Revisor of Statutes  
Cindy Wulfschlegel, Committee Secretary

Conferees appearing before the committee:

Richard Freund, LifeSafer Interlock  
Rosalie Thornburg, Bureau Chief of Traffic Safety  
Gene Johnson, Kansas Community Alcohol Safety Action Project Coordinators Association

Hearings on **HB 2183 - drivers licenses and driving privileges, suspension for alcohol-related offenses**, were opened.

Richard Freund, LifeSafer Interlock, appeared before the committee in support of the proposed legislation. He told the committee that ignition interlocks have been available since the mid 1980's. To date there are 35 states that have passed legislation authorizing their use, but how they are used varies from state to state.

In 1998 Congress made changes to the 410 incentive grant (TEA-21) that would require minimum penalties for repeat offenders: one year license suspension; mandatory jail or community service, mandatory alcohol assessment and treatment; mandatory vehicle sanctions either immobilization, impoundment or ignition interlock. The proposed bill would not put Kansas out of compliance with TEA-21 and would put the state in compliance if National Highway Transportation Safety Act would modify their rules relating to the usage of the ignition interlock. (Attachment 1)

Rosalie Thornburg, Bureau Chief of Traffic Safety, appeared before the committee as an opponent of the bill. She commented that Kansas already complies with criterion one of Section 164 in TEA-21, which is the mandatory minimum one-year "hard" driver's license suspension. The Department of Transportation believes that the current law on licenses suspension appears to be the most effective countermeasure in combating DUI cases. (Attachment 2)

Gene Johnson, Kansas Community Alcohol Safety Action Project Coordinators Association, appeared before the committee seeking clarification language found in the bill. (Attachment 3)

Hearings on **HB 2183** were closed.

The committee meeting adjourned at 5:15p.m. The next meeting is scheduled for February 11, 1999.

**HOUSE JUDICIARY COMMITTEE  
GUEST LIST**

NAME	REPRESENTING
Linda McGrey	MGA
Roberta Sue McKenna	SRS
Helen Pedigo	JTA
Mark Gleason	OJA
Bill Watts	KDOT
Kathalie Thornburgh	KDOT
Jeffrey Leslie	SEK Juv. Detention
Judy Green	Ks. Assn of Counties
Benny Russell	SEK Juvenile Detention Ctr.
JAMES CLARK	KC DAA
Nancy Albanhan	Attorney General
David Allen	KSC
Paul Jones	KSC
Helen Johnson	Ks. Community A.S.A.P. Assoc.
Jerry Denton	Ks Ignition Interlock
Anthony Ellis	SRS - CFS
Kurt D. J.	Ks IGNITION INTERLOCK
Nancy Ramsey	Ks Ignition Interlock
STEVE KEANEY	LIFESAVER INTERLOCK
<del>Marcy F. [unclear]</del>	<del>Dept of Vehicles KDOR</del>
Alan Anderson	KDOR - Vehicles
Jerry Wells	Koch Crime Institute
Charles Simmons	Dept. of Corrections
Derek A. Blaylock	Enter for Teresa Sittenauer
Nancy Lindberg	AG office

**Testimony on H.B. 2183**  
House Judiciary Committee  
February 10, 1999  
By Richard Freund  
President of LifeSafer Interlock Inc.

The State of Kansas has been exceptionally progressive in the battle against drunk driving. Strategies such as administrative license suspension, .08% BAC limits and mandatory alcohol assessments and treatment were implemented here long before most states realized the value of these sanctions. Kansas was also one of the first states to pass enabling legislation to pilot the use of ignition interlocks over 10 years ago. No legislative activity has occurred to expand their use here and the use of ignition interlocks in Kansas has languished.

Meanwhile, numerous states have passed laws to require ignition interlocks to be utilized as a condition of license reinstatement or for obtaining a restricted license or permit as the efficacy and proven effectiveness of ignition interlocks has been shown to control drinking and driving behavior and reduce DUI recidivism. A key randomized study is attached that was published in the Traffic Safety magazine of the National Safety Council. I know of no other DUI policy already implemented that had the support of randomized testing. Randomization tends to be contrary to the criminal justice system.

The following states have implemented mandatory legislation related to the use of ignition interlocks for repeat and in some cases first offenders; Iowa, Oklahoma, Colorado, Nebraska, Texas, Illinois, Michigan, Louisiana, Oregon, West Virginia, Nevada, Maryland, Virginia and the State of Washington.

Washington is particularly interesting because it targets not only offenders participating in deferred prosecution--like your diversion programs but mandates IID as a condition of license reinstatement for any offender who blows a .15% BAC or higher;

- 1 year on a first offense,
- 5 years on a 2<sup>nd</sup> and,
- 10 years on a 3<sup>rd</sup>.

Effective January 1, 1999, this legislation will positively control the drinking driving behavior of at least 15,000 offenders per year.

I am aware of the following states that have legislation requiring the use of ignition interlocks under consideration so far in 1999; New York, Maryland, Pennsylvania, Arkansas, Missouri, Wisconsin, Tennessee, New Hampshire, New Jersey Arizona, and New Mexico. Several of these states are also targeting High BAC offenders for use of ignition interlocks as an enhanced sanction supported by such special interests groups as National MADD and the alcohol industry.

Much of this increased activity is due to changes Congress made in 1998 to the 410 incentive grant programs and a new sanction program within what is known as TEA-21. 410 provides for an additional qualifying criteria for enhanced penalties for High BAC offenders and the sanction program requires "Minimum Penalties for Repeat Offenders" which summarized includes:

- One year license suspension
- Mandatory jail or community service
- Mandatory alcohol assessment and treatment
- Mandatory vehicle sanction; either immobilization, impoundment or alcohol ignition interlock

NHTSA has published interim rules without public comment and is now considering comments made by many states and special interest groups, including myself. States will see a percentage of their Federal highway construction money credited and debited to their highway safety money for failure to comply starting October 1, 2000. For most states this represents millions of dollars.

H.B. 2183 will not put Kansas out of compliance with TEA-21 sanctions and may serve to put the state in compliance under the vehicle sanction section especially if NHTSA modifies their rules related to ignition interlocks and ties their use to the license rather than the vehicle and allows for an employer exemption. NHTSA should do so because from a practical policy side that is what makes sense. And from a reality-side this is how all of the states that are requiring ignition interlocks as part of DUI sanctioning have implemented their laws. Specifically H.B. 2183:

- The bill would require the Department of Motor Vehicles to impose the ignition interlock restriction as an additional condition of obtaining a restricted license for 330 days for any 1<sup>st</sup> offender who registered a BAC test of twice the legal limit (.16%) or higher.
- The bill would increase the license suspension for 2<sup>nd</sup> offenders from 1 to 2 years and from 1 to 3 years for 3<sup>rd</sup> offenders. 2<sup>nd</sup> and 3<sup>rd</sup> offenders would be eligible to apply to the Department for an ignition interlock restricted license after 1 year of hard suspension for the remainder of the original suspension period.
- The bill would mandate that the Department require that any offender who refused the breath test install and maintain an ignition interlock device as a restriction to their driver's license for 1 year after they are otherwise eligible for reinstatement of their license.
- The bill would require the Department to mandate that any repeat offender install and maintain an ignition interlock device for 1 year as a condition of license reinstatement. Any time served on an ignition interlock restricted license would be credited towards the 1 year minimum.
- The bill authorizes the Department to assess a \$25.00 fee for the issuance of the ignition interlock restricted license.

In reviewing the draft of the bill, we would suggest the following amendments for clarification purposes:

- KSA 8-1015 (d) Page 5 lines 11-16 delete.
- KSA 8-1016 (3) Page 6 line 4 change "court" to "division"
- KSA 8-1014 (3) and (4) Page 3 lines 12-25 and add (5) as follows:

(3) On the person's second or a subsequent occurrence, suspend the person's driving privileges for one year *and restrict the person's driving privileges for one year in accordance with K.S.A. 8-1015, and amendments thereto.*

(4) On the person's third or subsequent occurrence suspend the person's driving privileges for one year *and restrict the person's driving privileges for two years in accordance with K.S.A. 8-1015, and amendments thereto.*

*(5) For any person whose driving privileges are suspended and restricted under (3) and (4) of this section, the division shall restrict the person's driving privileges for an additional one year to driving only a motor vehicle equipped with an ignition interlock device when the person is otherwise eligible for reinstatement of the driving privilege, provided however any time period of ignition interlock installation and use shall be credited to the one year minimum time period of ignition interlock restriction in this paragraph.*

In conclusion; requiring Ignition Interlock use by high risk DUI offenders is sound public policy for the following reasons:

- IID's control drinking and driving behavior and promote long-term behavioral change,
  - They can be cost-effectively applied for a long-period of time,
  - There is no cost to the tax payer,
  - The industry provides subsidies for economic hardship cases,
  - The technology is advanced and a vibrant competitive industry has emerged to support their extensive use,
  - They provide states with verifiable data on behavior and compliance with the sanction
- They protect public safety while providing the carrot-side of the equation for offenders to drive legally and be deterred from further criminal behavior--driving under suspension.

Thank you.





KANSAS DEPARTMENT OF TRANSPORTATION

E. Dean Carlson  
*Secretary of Transportation*

*Docking State Office Building*  
Topeka 66612-1568  
(785) 296-3566  
TTY (785) 296-3585  
FAX (785) 296-1095

Bill Graves  
*Governor of Kansas*

**TESTIMONY BEFORE  
HOUSE JUDICIARY COMMITTEE**

**REGARDING HOUSE BILL 2183  
USE OF IGNITION INTERLOCK DEVICES IN DUI OFFENSES  
February 10, 1999**

Mr. Chairman and Committee Members:

I am Rosalie Thornburgh, Bureau Chief of Traffic Safety. On behalf of the Department of Transportation, I am here today to testify on House Bill 2183 regarding the enhanced use of ignition interlock devices for DUI offenders and the federal requirement to enact a "repeat offender" law.

The Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) created Section 164 which encourages States to enact and enforce a repeat intoxicated driver law that establishes at a minimum, certain specified penalties for second and subsequent convictions for driving under the influence. These penalties include: 1) a one-year driver's license suspension; 2) the impoundment or immobilization of, or the installation of an ignition interlock system, 3) assessment of the repeat intoxicated driver's degree of alcohol abuse, and treatment as appropriate; and 4) the sentencing of the repeat intoxicated driver to a minimum number of days of imprisonment or community service.

Any State that does not enact and enforce a conforming repeat intoxicated driver law will be subject to a transfer of funds. If the State does not meet the statutory requirements on October 1, 2000 (FFY 2001) or October 1, 2001 (FFY 2002), 1 ½ percent of certain federal-aid highway construction funds will be transferred to the State's Section 402 highway safety program. If the State does not meet the statutory requirements on October 1, 2002 (FFY 2003), 3 percent will be transferred. Three percent will continue to be transferred on October 1 of each subsequent federal fiscal year, if the State does not meet the requirements on those dates. The funds transferred must be used for alcohol-impaired driving countermeasures or activities under Section 152 Hazard Elimination Program. Currently Kansas complies with one criterion.

Based upon current estimates, the penalty transfer amount for FFY 2001 and FFY 2002 would be \$3.2 million in each year. Beginning in FFY 2003, the penalty transfer amount would be \$6.6 million per year.

Criterion two requires that a State provide for one of three sanctions: the impoundment or immobilization of, or the installation of an ignition interlock on, all motor vehicles owned by the repeat intoxicated offenders. States may provide limited exceptions to the impoundment or immobilization requirement installed on an individual basis, to avoid undue hardship to an individual, including a family member of the repeat intoxicated driver, or a co-owner of the motor vehicle. Exceptions must be made in accordance with statewide-published guidelines developed by the State and in exceptional circumstances specific to the offender. No exception to the installation of the ignition interlock system, however, is acceptable.

Although ignition interlock devices have been in use for some time, the development of reliable interlocks is relatively new. Hence, research to determine their effectiveness is sparse. The studies, to date, have focused on the use of ignition interlocks by multiple DUI offenders after license suspensions are completed. Currently, thirty-five (35) states have laws providing for either the discretionary or mandatory use of ignition interlocks devices for repeat offenders. In most cases, these laws have been an addition to, not a substitute for, the current penalties of a DUI offense.

In conversations with the Washington D. C. staff of the National Highway Traffic Safety Administration, findings to date suggest that while the interlock is on the vehicle it serves to reduce recidivism. In a study recently completed in the State of Maryland, the findings were similar when the program was administered by a central agency with quality oversight. Findings further suggest that the interlock does not serve to change the long-term behavior patterns of drinking drivers. Once the interlock is removed, the offender reverts to a high-crash-involvement rate.

In a "Report to Congress," Compton (1988) concluded that because "there was not enough evidence that the devices are effective, it is not appropriate for the devices to be used in lieu of other sanctions that have evidence of beneficial effects (e.g., suspension); however use of this technology as an additional condition of probation or for reinstatement of a restricted driving privilege does appear appropriate."

Criterion one of Section 164 requires the imposition of a mandatory minimum one-year "hard" driver's license suspension. Current law provides for this sanction and this legislative proposal maintains that provision. Therefore, Kansas complies with this criterion.

In summary, an ignition interlock law that complies with Section 164 is necessary for the State of Kansas to avoid the transfer of federal-aid highway construction funds and preserve highway construction dollars. Secondly, maintaining current law on license suspension not only appears to be a most effective countermeasure but also would assist Kansas in complying with Section 164.

**Testimony  
House Judiciary Committee  
Chairperson, Representative Mike O'Neal  
February 10, 1999  
House Bill 2183**

**Good Afternoon, Chairman O'Neal, and member of the Committee,**

**I am Gene Johnson and I represent the Kansas Community Alcohol Safety Action Project Coordinators Association. We appear today, not in opposition to House Bill 2183, but for some clarification of certain portions of this Bill.**

**On page 3, paragraphs 1 and 2, would appear to be the same penalties, although stated somewhat differently.**

**Again on page 3, paragraph 3, we are somewhat confused about the language appearing on lines 13 through 18. It would appear that the driving privileges would be restricted in accordance with K.S.A. 8-1015 and then after that one year, be restricted for another year, driving only with an ignition interlock.**

**Again, on page 3, lines 19 through 25, regarding the restriction for an interlock placed on one's vehicle for a period of two years. It would appear to us that on a third or subsequent occurrence, we may be dealing with a third or subsequent conviction, which places that offender in the Habitual Violator category. This Statute K.S.A. 8-255 takes administration sanctions of notice of a suspension for a period of three years. Would this administrative action under this particular bill over ride K.S.A. 8-255?**

**Again, on page 5, lines 8 through 10, "The division shall not issue the restricted license under this subsection until the person has provided proof of installation of an approved ignition interlock device." Our question is, does the period of restriction begin on the date of occurrence, or the date of the administrative hearing, or at the time that the interlock is placed on the vehicle?**



House Bill 2183  
February 10, 1999  
page 2

Also, on page 5 starting with line 11 through 16, in which the Court has the obligation of restricting the offender's license upon conviction of an alcohol concentration of .15% or above. This appears to be somewhat in conflict with the proposed language as far as administration sanction for the offender's driving privileges.

These were some concerns our organization has regarding this proposed legislation. Thank you for your time and consideration.

Respectfully,



Gene Johnson  
Legislative Liaison  
Kansas Community Alcohol Safety Action  
Project Coordinators Association