

## MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:35 A.M. on March 9, 2006, in Room 123-S of the Capitol.

All members were present,

Phil Journey arrived, 9:38 a.m.  
Greta Goodwin arrived, 9:42 a.m.  
Barbara Allen arrived, 9:44 a.m.  
Derek Schmidt arrived, 9:50 a.m.

Committee staff present:

Helen Pedigo, Office of Revisor of Statutes  
Karen Clowers, Committee Secretary

Conferees appearing before the committee:

Toby Taylor, Kansas Ignition Interlock Association  
Dan Hermes, Kansas Ignition Interlock Association  
Terry Heidner, Director of Planning and Development, Kansas Department of Transportation  
Marcy Ralston, Chief, Driver Control Bureau, Department of Revenue, Division of Vehicles  
Representative Jene Vickery  
Karen Whittman, Senior Assistant District Attorney, Shawnee County

Others attending:

See attached list.

The hearing on **HB 2916--Driving privileges, DUI; ignition interlock, proof of installation** was opened.

Toby Taylor appeared as a proponent providing information on the intent of the bill and effect of existing legislation (Attachment 1).

Dan Hermes spoke in favor of the bill and briefed the committee on the background of the bill and provided a balloon amendment indicating installation of the interlock device is for the full year of the restricted period (Attachment 2).

Terry Heidner provided neutral testimony indicating that **HB 2916** as originally proposed would cause Kansas to be in non-compliance with federal requirements for repeat DUI offenders (Attachment 3). The problem has been corrected in the current version.

Marcy Ralston provided neutral testimony relating several administrative concerns with the current version of the bill (Attachment 4). She requested clarification on:

- driving status should a person not drive or own a car during the restriction,
- how to determine installation during the entire period of restriction, and
- status of drivers at the end of the restriction but did not install the device.

There being no further conferees, the hearing on **HB 2916** was closed.

The hearing on **HB 2938--Driving while suspended or revoked, habitual violator third or subsequent offense, nonperson felony, sentence in county jail** was opened.

Representative Jene Vickery appeared on behalf of Representative Shari Weber and briefed the committee on the bill (Attachment 5).

Karen Whittman spoke as an opponent indicating current law is sufficient to handle repeat offenders who continue to drive on a suspended license (Attachment 6). Ms. Whittman indicated concern for people who cannot financially afford to pay a ticket, and subsequently, failed to pay penalties attached increasing the amount owed. They are not bad or dangerous drivers and should not be labeled felons because of financial difficulties. Ms. Whittman suggested changing the offense from a felony to a misdemeanor, creating an enhanced penalty for repeat offenders of Driving While Habitual violators, and if necessary create a

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:35 A.M. on March 9, 2006, in Room 123-S of the Capitol.

mandatory sentence.

The Chairman requested Ms. Whittman work with Senators Journey and Bruce to develop a balloon amendment to address her concerns.

Written testimony in support of **HB 2916** was submitted by:

Kenneth M. McGovern, Sheriff, Douglas County (Attachment 7)

There being no further conferees, the hearing **HB 2938** was closed.

The meeting adjourned at 10:15 a.m. The next scheduled meeting is March 13, 2006.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 3-9-06

NAME	REPRESENTING
Jeff Bottenberg	State Farm
Lance Wilson	OTA
Terry Heidner	KDOT
RUSSELL MILLS	GACHES BRADEN
Jennifer Herrmann	KDOR-DMV
Marcy Balst	KDOR-DMV
Natalie Nelson	Kansas Sentencing Comm
Brenda Harmon	" " "
Patricia Biggs	" " "
JOHN EICKORN	KHP
KEVIN GRAHAM	AG
Michael White	KCDAA
Karen Wittman	Shawnee Co. DA's office
Dan MORRIS	KHA

# Kansas Ignition Interlock Association (KIIA)

## LEGISLATIVE TESTIMONY

TO: Chairman John Vratil and Members of the Senate Judiciary Committee

FROM: Toby Taylor, Kansas Ignition Interlock Association

DATE: March 9, 2006

SUBJECT: HB 2916 – Driving under the influence and use of interlock devices

Matt Strausz  
Smart Start

Toby Taylor  
Guardian Interlock  
Systems

Mr. Chairman and Members of the Committee, my name is Toby Taylor and I am vice-president of the Kansas Ignition Interlock Association. I am the Director of Operations for Guardian Interlock Network, one of the limited number of companies certified to distribute ignition interlock devices in Kansas. I appreciate the opportunity to appear to today in support of HB 2916.

The goal of HB 2916 is to increase compliance with the requirement to limit operation to vehicles equipped with an ignition interlock device for certain DUI offenders. In 2001, the Legislature passed SB 67, which made significant changes in the state's DUI laws. One provision of this act required the use of ignition interlocks for second, third and fourth-time offenders for one year following an initial one-year suspension.

As we have monitored the installation of our devices since this act became effective; it became apparent that compliance with this requirement was low. Prior to the session, we requested information from the Kansas Department of Revenue to determine if our observations could be verified. The following table presents the information received from the Department:

Year	Interlock Required	Interlock Installed	Percent Compliance
2002	592	65	11.0%
2003	1,547	499	32.3%
2004	1,241	364	29.3%
2005	1,736	305	17.6%

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Senate Judiciary

3-9-06

Attachment 1

The bill in front of you today makes two changes to existing law that we believe will substantially increase the level of compliance. In Section 2(b), under current law, after the one-year suspension for 2<sup>nd</sup> through 4<sup>th</sup> offenses, the person's license is restricted to driving a vehicle equipped with an interlock device. The proposed change would require the person to provide proof of installation to the division of motor vehicles prior to reinstatement of their drivers license.

In Section 3(b), under current law offender's licenses are restricted to driving to work, school and under other limited circumstances unless they opt for a license restricted to driving a vehicle equipped with an ignition interlock device. The change proposed would require the person to provide proof of installation of the device to the division of motor vehicles if they request that alternative sanction.

Use of ignition interlock devices have been shown to reduce repeat DUI offenses. In an issue brief by Mothers Against Drunk Drivers, MADD sites reductions of between 65 and 90 percent in states that require use of the device. In order to achieve these results however, we must take steps to increase compliance. That is the intent of the proposed legislation.

I thank the committee for its time and attention and would stand for any questions.

# PUBLIC SOLUTIONS

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2512 SW OSBORN ROAD  
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## LEGISLATIVE TESTIMONY

TO: Senator John Vratil and Members of the Senate Judiciary Committee

DATE: March 9, 2006

SUBJECT: HB 2916 Background and Proposed Amendment

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Mr. Chairman and Members of the Committee, my name is Dan Hermes and I represent The Kansas Ignition Interlock Association.

I thought, in addition to the testimony on the goal we have for HB 2916 provided by Mr. Taylor, that I would provide the committee with some of the background on the legislation. Last session we introduced similar legislation. The bill last year created administrative problems for the Department of Revenue. We worked with the Department over the summer to address these concerns and introduced the bill in front of you today.

As introduced, the bill would have closed a loophole by requiring proof of installation of the device after the initial year suspension. The offender's license would have remained suspended during the second year unless and until this proof was provided. At the hearing in the House, the Kansas Department of Transportation opposed the bill. This opposition was based on indications from the National Highway Traffic Safety Administration (NHTSA) that passage of the bill would place us in non-compliance with federal requirements and would have financial implications for the state.

The federal requirement is that state's have a mandatory vehicle sanction for repeat offenders for a specified period of time. Their interpretation was that, as introduced, the vehicle sanction was not mandatory as an offender could elect to serve the two year suspension period, not install the device and have their license reinstated. Given that, we worked with KDOT on language that NHTSA would deem to keep us in compliance. That resulted in the committee amendment that requires proof that the device was indeed installed prior to the license reinstatement.

We believe, however, that the exact language provided by KDOT in front of you today creates a situation where an offender can still manipulate the system. As I read the language without a time period specified, an offender would only need to install the device for one day and have their license reinstated.

I have attached a proposed amendment to my testimony that I believe would more accurately reflect the intent of our interlock requirement, namely, that the device be installed for the full year of the restricted period. This language has also been presented to NHTSA and deemed to maintain the state's compliance. I thank the committee for its time and attention and would stand for any questions.

Senate Judiciary  
3-9-06  
Attachment 2

For the full year of the restricted period

1 of the suspension, the division shall restrict the person's driving privileges  
2 for the balance of such second year to driving only a motor vehicle  
3 equipped with an ignition interlock device **Proof of the installation of**  
4 **such device shall be provided to the division before the person's**  
5 **driving privileges are fully reinstated;** and

6 (3) on the person's fifth or subsequent occurrence, the person's driv-  
7 ing privileges shall be permanently revoked.

8 (c) Except as provided by subsection (e) and K.S.A. 8-2,142, and  
9 amendments thereto, if a person who is less than 21 years of age fails a  
10 test or has an alcohol or drug-related conviction in this state, the division  
11 shall suspend the person's driving privileges for one year.

12 (d) Whenever the division is notified by an alcohol and drug safety  
13 action program that a person has failed to complete any alcohol and drug  
14 safety action education or treatment program ordered by a court for a  
15 conviction of a violation of K.S.A. 8-1567, and amendments thereto, the  
16 division shall suspend the person's driving privileges until the division  
17 receives notice of the person's completion of such program.

18 (e) Except as provided in K.S.A. 8-2,142, and amendments thereto,  
19 if a person's driving privileges are subject to suspension pursuant to this  
20 section for a test refusal, test failure or alcohol or drug-related conviction  
21 arising from the same arrest, the period of such suspension shall not  
22 exceed the longest applicable period authorized by subsection (a), (b) or  
23 (c), and such suspension periods shall not be added together or otherwise  
24 imposed consecutively. In addition, in determining the period of such  
25 suspension as authorized by subsection (a), (b) or (c), such person shall  
26 receive credit for any period of time for which such person's driving  
27 privileges were suspended while awaiting any hearing or final order au-  
28 thorized by this act.

29 If a person's driving privileges are subject to restriction pursuant to  
30 this section for a test failure or alcohol or drug-related conviction arising  
31 from the same arrest, the restriction periods shall not be added together  
32 or otherwise imposed consecutively. In addition, in determining the pe-  
33 riod of restriction, the person shall receive credit for any period of sus-  
34 pension imposed for a test refusal arising from the same arrest.

35 (f) If the division has taken action under subsection (a) for a test  
36 refusal or under subsection (b) or (c) for a test failure and such action is  
37 stayed pursuant to K.S.A. 8-259, and amendments thereto, or if tempo-  
38 rary driving privileges are issued pursuant to K.S.A. 8-1020, and amend-  
39 ments thereto, the stay or temporary driving privileges shall not prevent  
40 the division from taking the action required by subsection (b) or (c) for  
41 an alcohol or drug-related conviction.

42 (g) Upon restricting a person's driving privileges pursuant to this sec-  
43 tion, the division shall issue a copy of the order imposing the restrictions

1 which is required to be carried by the person at any time the person is  
2 operating a motor vehicle on the highways of this state.

3 (h) Any person whose license is restricted to operating only a motor  
4 vehicle with an ignition interlock device installed may operate an em-  
5 ployer's vehicle without an ignition interlock device installed during nor-  
6 mal business activities, provided that the person does not partly or entirely  
7 own or control the employer's vehicle or business. ~~The provisions of this~~  
8 ~~subsection shall be effective on and after July 1, 2001.~~

9 Sec. 3. K.S.A. 8-1015 is hereby amended to read as follows: 8-1015.

10 (a) When subsection (b)(1) of K.S.A. 8-1014, and amendments thereto,  
11 requires or authorizes the division to place restrictions on a person's driv-  
12 ing privileges, the division shall restrict the person's driving privileges to  
13 driving only under the circumstances provided by subsections (a)(1), (2),  
14 (3) and (4) of K.S.A. 8-292 and amendments thereto.

15 (b) In lieu of the restrictions set out in subsection (a), the division,  
16 upon request of the person whose driving privileges are to be restricted,  
17 may restrict the person's driving privileges to driving only a motor vehicle  
18 equipped with an ignition interlock device, approved by the division and  
19 obtained, installed and maintained at the person's expense. *Prior to is-*  
20 *ssuing such restricted license, the division shall receive proof of the in-*  
21 *stallation of such device.*

22 (c) When a person has completed the one-year suspension pursuant  
23 to subsection (b)(2) of K.S.A. 8-1014, and amendments thereto, the di-  
24 vision shall restrict the person's driving privileges for one year to driving  
25 only a motor vehicle equipped with an ignition interlock device, approved  
26 by the division and maintained at the person's expense. *Prior to issuing*  
27 *such restricted license, the division shall receive proof of the installation*  
28 *of such device. If proof of such installation is not received by the division*  
29 *by the end of such year, the suspension shall be extended for one year. If*  
30 *proof of installation of such device is received by the division during the*  
31 *second year of the suspension, the division shall restrict the person's driv-*  
32 *ing privileges for the balance of such second year to driving only a motor*  
33 *vehicle equipped with an ignition interlock device. **Proof of the instal-***  
34 **lation of such device shall be provided to the division before the**  
35 **person's driving privileges are fully reinstated.**

36 (d) Upon expiration of the period of time for which restrictions are  
37 imposed pursuant to this section, the licensee may apply to the division  
38 for the return of any license previously surrendered by the licensee. If  
39 the license has expired, the person may apply to the division for a new  
40 license, which shall be issued by the division upon payment of the proper  
41 fee and satisfaction of the other conditions established by law, unless the  
42 person's driving privileges have been suspended or revoked prior to  
43 expiration.

for the full  
year of the  
restricted period



# either the discretionary or mandatory use of DWI (driving-while-intoxicated) offenders.

## INTERLOCK DISTRIBUTION

There are six major manufacturers of interlocks worldwide, including LifeSafer, Draeger and Intoxalock. Guardian Interlock, one of the oldest providers, has installed nearly 35,000 interlock devices throughout the United States, resulting in over 4.5 million alcohol-related stops since 1999.

Smart Start, another vendor that opened in 1993, has installed 50,000 interlock units over the years. The company is currently developing a more sophisticated platform, according to President Jim Ballard. The SSI 2020, which will debut in the first quarter of 2006, includes photo identification using a windshield camera.

"Most people are not trying to tamper, but this is just another step is combating that," Ballard said.

In late 2006, Smart Start also plans to integrate wireless communication for real-time reporting. This will allow motor vehicle agencies to instantly know about violations, rather than having to wait for the client to come in for service once a month.

Draeger Safety Diagnostics is also implementing newer technology. The new Draeger XT, which is already in use in Alaska and 11 other states, warms up quickly and is more user-friendly than the previous device, the Draeger 920. According to Virginia State Program Coordinator Greg Vasilou, Draeger has installed over 25,000 interlocks since its inception in 1998.

While most companies service and manufacture the devices, National Interlock Service is the only vendor that focuses solely on distribution and service. With about 100 offices nationwide, National Interlock has provided service to 16 states since 1995, according to Jack Dalton, director of Market Development.

## DISCRETIONARY OR MANDATORY?

Forty-three U.S. states have laws providing for either the discretionary or mandatory use of ignition interlock devices for repeat and chronic DWI (driving-while-intoxicated) offenders. The device is discretionary in 28 states and mandatory under some special circumstances in 15 states.

If called for by a licensing agency, the devices are usually more voluntary with some mandatory elements. For example, an offender must complete the interlock program to get their license reinstated.

When courts are involved, however, interlocks are more mandatory. A judge often orders the interlock as a

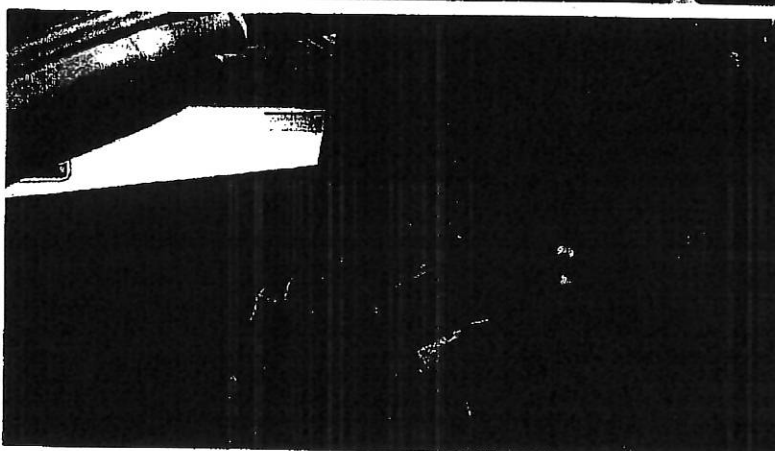
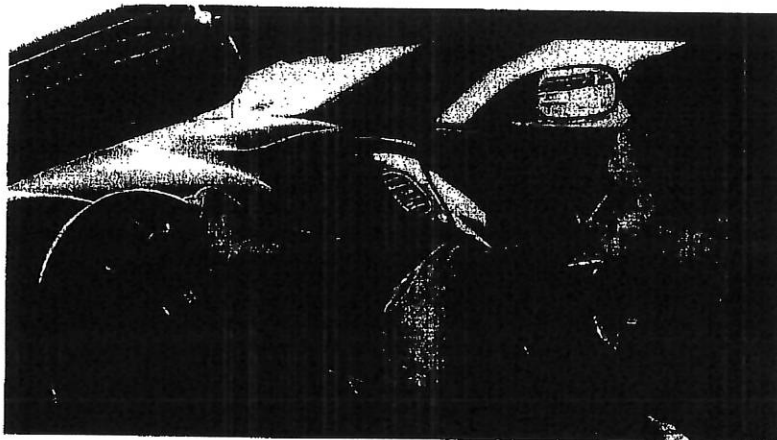
condition of probation. Unfortunately, many offenders still don't comply.

And while interlocks do show success—they reduce recidivism by 50 to 75 percent—getting them into the offenders' cars is more difficult.

"The problem is that, with court and state programs, about only 10 to 20 percent of interlock offenders put them in their cars," said Bob Voas, senior scientist at Pacific Institute for Research and Evaluation (PIRE).

Part of the problem is that some states' laws are voluntary. In California, for example, an offender has the option of driving with a limited license for part of their suspension period if they take an interlock device. However, less than 20 percent of those eligible in California elect to have the interlock installed.

Smart Start has installed  
50,000 IIDs in cars since 1993.



# that the alternative to putting an interlock in the of offenders having interlocks installed.

## PROGRAM PITFALLS

While Ontario and others are leaning toward more severe laws, interlock programs can still fall subject to pitfalls that undermine their success.

In Wisconsin, for example, a 1993 law requires that an interlock must be ordered by the court. However, the court has no authority to order one for a first offender. Interlocks may be ordered on the second offense and are required on any subsequent offenses.

In 2004, about 3,200 interlocks were ordered by the court in Wisconsin, which resulted in only 468 interlocks being installed in cars.

"Compare the number ordered to the number that actually get installed, and it doesn't appear that a lot of them do," said Rhonda Alley, section chief for the Wisconsin Driver Information section of the Division of Motor Vehicles.

In an executive summary of ignition interlocks produced in 2003, Wisconsin concluded that three significant factors deter drivers from complying with IID orders: "The expense to the driver of IID installation; the small possibility of being caught for shirking an IID order; and a general lack of knowledge about how IIDs work."

The summary also states that "although popular, the IID is no 'silver bullet.'" In short, interlocks may work while they are on the car, but for most people there is no long-term behavioral effect.

North Carolina has also had difficulty making sure offenders comply with IID orders and judges comply with laws, according to Ike Avery, prosecutor liaison with the southeast region of NHTSA. If a driver has a BAC of .16 or more and wants a work permit, an interlock is required. For BACs of less than .16, interlocks are not required but can be ordered by the judge.

Also, any driver who is convicted of DWI and has a BAC of .16 or more, or a prior conviction within seven years, is required to have the interlock for at least one year upon reinstatement. Credit is given for any time the driver had a work permit and an interlock.

Avery said 12,000 people in North Carolina come up with .16 BACs each year, but only about 3,500 interlocks are ordered.

"It's just like anything else," Avery said. "Just like you can drive without a license until you get caught, a lot of people drive without interlocks until they get caught. It's more of an inconvenience to [these offenders] to not drink and drive."

## Want More Information on Interlocks?

The Traffic Injury Research Foundation has hosted the International Ignition Interlock Symposium for the past six years. The proceedings from the series, which began in 2000, are available on TIRF's Web site at [www.trafficinjuryresearch.com](http://www.trafficinjuryresearch.com). Each symposium attracts an international group of researchers, interlock manufacturers, service providers, policy makers and program specialists.

"The field of interlocks is rapidly evolving," said TIRF's Robyn Robertson. "The symposium provides an excellent opportunity for people to find out the latest advances and speak with leading professionals representing a range of fields."

The first symposium in Montréal, Canada involved about 30 attendees and resulted in a comprehensive "best practices" document. The 2004 symposium in Tempe, Arizona, was the largest ever, attracting 150 delegates representing 12 countries. The program included sessions related to the role of rehabilitation, innovations in interlock programs, testing and certification issues, as well as program and research updates.

Planning is already underway for the next symposium scheduled to be held October 2006 in Beaver Creek, Colorado. The symposium will explore the latest developments in ignition interlock programs, service delivery and legislation. For more information, visit [www.trafficinjuryresearch.com/interlock/interlock\\_symposia.cfm](http://www.trafficinjuryresearch.com/interlock/interlock_symposia.cfm).



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The collage contains several elements:

- A sign with a person at a computer icon and the text: "Distracted Driving. It's the new danger." Below it: "Texting while driving is a distraction. It's the new danger. Don't drink and drive. It's the old danger. Don't drink and drive. It's the old danger." At the bottom: "Distracted Driving. It's the new danger." and "Don't Drink and Drive. It's the old danger."
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# MADD Takes on Drunk Driving

Nearly 17,000 people are killed each year by alcohol-related crashes, and nearly 13,000 of these involve drivers with blood alcohol concentrations of .08 or above. In addition, 500,000 people each year are injured in alcohol-related crashes.

"It's just too many," says Glynn Birch, national president and the first father to lead Mothers Against Drunk Driving. "It just can't be acceptable anymore."

One of MADD's major goals is to reduce drunk driving by 25 percent by 2008. In fact, the organization has already helped to reduce alcohol-related fatalities on roadways by 44 percent—that's more than 300,000 lives saved—since its founding in 1980.

Now, in the year of its 25th anniversary, MADD is advocating for the use of more technology, including ignition interlock devices, to cut down on drunk driving.

"We want to continue the use of the device because it's proven to be an excellent tool, especially with repeat offenders," Birch said. "We advocate for all convicted drunk drivers to be required to use the device."

In addition, MADD hopes to promote alternative modes of transportation, such as public transportation or a designated driver.

"Drunk driving is the most frequently committed violent crime," Birch said. "And it's 100 percent preventable."

For more information on MADD's initiatives, visit [www.madd.org](http://www.madd.org).

The screenshot shows the MADD website interface. At the top, there is a search bar and the MADD logo with the tagline "Mothers Against Drunk Driving". Below the logo, there are several news articles. One article features a photo of a person and discusses a legislative update. Another article includes a photo of a vehicle and discusses a court decision. The text is partially obscured by the image quality but clearly shows the layout of a news page.

# In short, interlocks most people there

## THE ROAD TO SUCCESS

Experts feel the key to curbing non-compliance is a comprehensive interlock program. Wisconsin's executive summary states, "In order to make IIDs work as they are supposed to, more time and money needs to be devoted to IID enforcement and development of an effective process for compliance with the court order."

The Maryland Motor Vehicle Administration (MVA) has one of the oldest and most successful interlock programs. Since the program began in 1989, the MVA has monitored approximately 6,000 devices per year. Maryland is also unique because it pioneered the idea of inspecting interlock vendors to make sure they comply with NHTSA standards.

"We team up with some people that are certified automotive mechanics and do on-site quality assurance visits," said Jane Valenzia, manager of the MVA's ignition interlock program.

The MVA maintains a comprehensive interlock program, meaning that the agency itself monitors the interlock users for the numbers of starts, stops and bypass attempts. Maryland's program has also achieved success on a voluntary basis. Instances have been documented where ten offenders chose to continue participation in their interlock programs beyond the required period so they could avoid future DWI arrests.

According to "Alcohol Ignition Interlock Devices," a 2001 position paper by the International Council on Alcohol, Drugs and Traffic Safety (ICADTS), ignition interlocks are only effective if someone monitors the interlock data record, examines the integrity of the device itself, and reports these findings to an authority (a motor vehicle agency or the courts) that will impose sanctions if violations are found.

The paper notes a number of ways to increase the effectiveness of interlocks, including visibly marking the interlock restriction on the offender's driver's license.

## THE FUTURE OF INTERLOCKS

Since interest in the idea of the interlock began in 1969, the devices have come a long way. In Europe, interlocks are currently being piloted in commercial vehicles such as buses and taxis. Some parents in the United States and elsewhere have even taken advantage of the technology by installing devices in their teenagers' cars.

# may work while they are on the car, but for is no long-term behavioral effect.

Since some Alaskans use four-wheelers and snow machines as primary transportation, Alaska is another pioneer in installing interlocks in different types of vehicles. In fact, a court in Nome recently ordered an interlock for a four-wheeler, according to Steve Christopher of Alaska Monitoring Services, an interlock vendor.

While manufacturers like Saab and Volvo have developed voluntary, portable interlock devices such as the AlcoKey, no company has yet embraced the idea of building interlocks in to all vehicles.

"Manufacturers are realizing this could become an issue in the future, but I think we're still a long way away from having interlocks installed in all vehicles," said Robyn Robertson, vice president of Operations for the Traffic Injury Research Foundation (TIRF).

National Interlock's Jack Dalton predicts vehicles from the factory will include a passive alcohol detection sen-

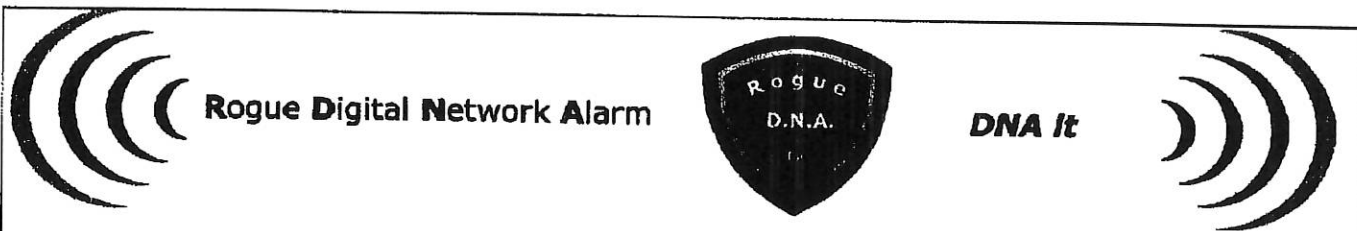
sor in about 10 to 15 years.

"We're going to move away from just going after people who have already had offenses to take preemptive action against the common driver," Dalton said.

But for now, safety advocates are concentrating on improving the devices and their respective programs. Most feel that interlocks should be mandatory for first offenders and that governing bodies should check up to make sure convicted drivers get them installed.

Smart Start's Jim Ballard simply wants interlock manufacturers to include more anti-tampering measures.

"Most companies have good anti-tampering measures, but we would like to see the states require that those features be required to stay on," Ballard said. "Most manufacturers have the ability but it needs to be enforced. The next step is just making sure that the providers are turning that stuff on and using it."



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As Amended by House Committee

Session of 2006

HOUSE BILL No. 2916

By Committee on Judiciary

2-14

10 AN ACT concerning driving under the influence of alcohol or drugs;  
11 relating to ignition interlock devices; amending K.S.A. 8-1014 and 8-  
12 1015 and K.S.A. 2005 Supp. 8-1001 and repealing the existing sections.  
13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2005 Supp. 8-1001 is hereby amended to read as  
16 follows: 8-1001. (a) Any person who operates or attempts to operate a  
17 vehicle within this state is deemed to have given consent, subject to the  
18 provisions of this act, to submit to one or more tests, including, but not  
19 limited to, a preliminary screening test pursuant to K.S.A. 8-1012, and  
20 amendments thereto, of the person's blood, breath, urine or other bodily  
21 substance to determine the presence of alcohol or drugs. The testing  
22 deemed consented to herein shall include all quantitative and qualitative  
23 tests for alcohol and drugs. A person who is dead or unconscious shall be  
24 deemed not to have withdrawn the person's consent to such test or tests,  
25 which shall be administered in the manner provided by this section.

26 (b) A law enforcement officer shall request a person to submit to a  
27 test or tests deemed consented to under subsection (a) if the officer has  
28 reasonable grounds to believe the person was operating or attempting to  
29 operate a vehicle while under the influence of alcohol or drugs, or both,  
30 or to believe that the person was driving a commercial motor vehicle, as  
31 defined in K.S.A. 8-2,128, and amendments thereto, or was under the  
32 age of 21 years while having alcohol or other drugs in such person's sys-  
33 tem; and one of the following conditions exists: (1) The person has been  
34 arrested or otherwise taken into custody for any offense involving oper-  
35 ation or attempted operation of a vehicle while under the influence of  
36 alcohol or drugs, or both, or for a violation of K.S.A. 8-1567a, and amend-  
37 ments thereto, or involving driving a commercial motor vehicle, as de-  
38 fined in K.S.A. 8-2,128, and amendments thereto, while having alcohol  
39 or other drugs in such person's system, in violation of a state statute or a  
40 city ordinance; or (2) the person has been involved in a vehicle accident  
41 or collision resulting in property damage, personal injury or death. The  
42 law enforcement officer directing administration of the test or tests may  
43 act on personal knowledge or on the basis of the collective information

1 available to law enforcement officers involved in the accident investiga-  
2 tion or arrest.

3 (c) If a law enforcement officer requests a person to submit to a test  
4 of blood under this section, the withdrawal of blood at the direction of  
5 the officer may be performed only by: (1) A person licensed to practice  
6 medicine and surgery or a person acting under the supervision of any  
7 such licensed person; (2) a registered nurse or a licensed practical nurse;  
8 or (3) any qualified medical technician, including, but not limited to, an  
9 emergency medical technician-intermediate or mobile intensive care  
10 technician, as those terms are defined in K.S.A. 65-6112, and amend-  
11 ments thereto, or a phlebotomist. When presented with a written state-  
12 ment by a law enforcement officer directing blood to be withdrawn from  
13 a person who has tentatively agreed to allow the withdrawal of blood  
14 under this section, the person authorized herein to withdraw blood and  
15 the medical care facility where blood is withdrawn may rely on such a  
16 statement as evidence that the person has consented to the medical pro-  
17 cedure used and shall not require the person to sign any additional con-  
18 sent or waiver form. In such a case, the person authorized to withdraw  
19 blood and the medical care facility shall not be liable in any action alleging  
20 lack of consent or lack of informed consent. No person authorized by this  
21 subsection to withdraw blood, nor any person assisting in the performance  
22 of a blood test nor any medical care facility where blood is withdrawn or  
23 tested that has been directed by any law enforcement officer to withdraw  
24 or test blood, shall be liable in any civil or criminal action when the act  
25 is performed in a reasonable manner according to generally accepted  
26 medical practices in the community where performed.

27 (d) If there are reasonable grounds to believe that there is impair-  
28 ment by a drug which is not subject to detection by the blood or breath  
29 test used, a urine test may be required. If a law enforcement officer  
30 requests a person to submit to a test of urine under this section, the  
31 collection of the urine sample shall be supervised by persons of the same  
32 sex as the person being tested and shall be conducted out of the view of  
33 any person other than the persons supervising the collection of the sample  
34 and the person being tested, unless the right to privacy is waived by the  
35 person being tested. The results of qualitative testing for drug presence  
36 shall be admissible in evidence and questions of accuracy or reliability  
37 shall go to the weight rather than the admissibility of the evidence.

38 (e) No law enforcement officer who is acting in accordance with this  
39 section shall be liable in any civil or criminal proceeding involving the  
40 action.

41 (f) Before a test or tests are administered under this section, the  
42 person shall be given oral and written notice that: (A) Kansas law requires  
43 the person to submit to and complete one or more tests of breath, blood

1 or urine to determine if the person is under the influence of alcohol or  
2 drugs, or both;

3 (B) the opportunity to consent to or refuse a test is not a constitu-  
4 tional right;

5 (C) there is no constitutional right to consult with an attorney re-  
6 garding whether to submit to testing;

7 (D) if the person refuses to submit to and complete any test of breath,  
8 blood or urine hereafter requested by a law enforcement officer, the  
9 person's driving privileges will be suspended for one year for the first  
10 occurrence, two years for the second occurrence, three years for the third  
11 occurrence, 10 years for the fourth occurrence and permanently revoked  
12 for a fifth or subsequent offense;

13 (E) if the person submits to and completes the test or tests and the  
14 test results show an alcohol concentration of .08 or greater, the person's  
15 driving privileges will be suspended for 30 days for the first occurrence,  
16 ~~one year up to two years~~ **not less than one year** for the second, third  
17 or fourth occurrence and permanently revoked for a fifth or subsequent  
18 offense;

19 (F) if the person is less than 21 years of age at the time of the test  
20 request and submits to and completes the tests and the test results show  
21 an alcohol concentration of .08 or greater, the person's driving privileges  
22 will be suspended up to one year;

23 (G) refusal to submit to testing may be used against the person at any  
24 trial on a charge arising out of the operation or attempted operation of a  
25 vehicle while under the influence of alcohol or drugs, or both;

26 (H) the results of the testing may be used against the person at any  
27 trial on a charge arising out of the operation or attempted operation of a  
28 vehicle while under the influence of alcohol or drugs, or both; and

29 (I) after the completion of the testing, the person has the right to  
30 consult with an attorney and may secure additional testing, which, if de-  
31 sired, should be done as soon as possible and is customarily available from  
32 medical care facilities and physicians.

33 (g) If a law enforcement officer has reasonable grounds to believe  
34 that the person has been driving a commercial motor vehicle, as defined  
35 in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other  
36 drugs in such person's system, the person shall also be provided the oral  
37 and written notice pursuant to K.S.A. 8-2,145 and amendments thereto.  
38 Any failure to give the notices required by K.S.A. 8-2,145 and amend-  
39 ments thereto shall not invalidate any action taken as a result of the  
40 requirements of this section. If a law enforcement officer has reasonable  
41 grounds to believe that the person has been driving or attempting to drive  
42 a vehicle while having alcohol or other drugs in such person's system and  
43 such person was under 21 years of age, the person also shall be given the



1 notices required by K.S.A. 8-1567a, and amendments thereto. Any failure  
2 to give the notices required by K.S.A. 8-1567a, and amendments thereto,  
3 shall not invalidate any action taken as a result of the requirements of  
4 this section.

5 (h) After giving the foregoing information, a law enforcement officer  
6 shall request the person to submit to testing. The selection of the test or  
7 tests shall be made by the officer. If the person refuses to submit to and  
8 complete a test as requested pursuant to this section, additional testing  
9 shall not be given unless the certifying officer has probable cause to be-  
10 lieve that the person, while under the influence of alcohol or drugs, or  
11 both, has operated a vehicle in such a manner as to have caused the death  
12 of or serious injury to another person. If the test results show a blood or  
13 breath alcohol concentration of .08 or greater, the person's driving priv-  
14 ileges shall be subject to suspension, or suspension and restriction, as  
15 provided in K.S.A. 8-1002 and 8-1014, and amendments thereto.

16 (i) The person's refusal shall be admissible in evidence against the  
17 person at any trial on a charge arising out of the alleged operation or  
18 attempted operation of a vehicle while under the influence of alcohol or  
19 drugs, or both.

20 (j) If a law enforcement officer had reasonable grounds to believe the  
21 person had been driving a commercial motor vehicle, as defined in K.S.A.  
22 8-2,128, and amendments thereto, and the test results show a blood or  
23 breath alcohol concentration of .04 or greater, the person shall be dis-  
24 qualified from driving a commercial motor vehicle, pursuant to K.S.A. 8-  
25 2,142, and amendments thereto. If a law enforcement officer had rea-  
26 sonable grounds to believe the person had been driving a commercial  
27 motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto,  
28 and the test results show a blood or breath alcohol concentration of .08  
29 or greater, or the person refuses a test, the person's driving privileges  
30 shall be subject to suspension, or suspension and restriction, pursuant to  
31 this section, in addition to being disqualified from driving a commercial  
32 motor vehicle pursuant to K.S.A. 8-2,142, and amendments thereto.

33 (k) An officer shall have probable cause to believe that the person  
34 operated a vehicle while under the influence of alcohol or drugs, or both,  
35 if the vehicle was operated by such person in such a manner as to have  
36 caused the death of or serious injury to another person. In such event,  
37 such test or tests may be made pursuant to a search warrant issued under  
38 the authority of K.S.A. 22-2502, and amendments thereto, or without a  
39 search warrant under the authority of K.S.A. 22-2501, and amendments  
40 thereto.

41 (l) Failure of a person to provide an adequate breath sample or sam-  
42 ples as directed shall constitute a refusal unless the person shows that the  
43 failure was due to physical inability caused by a medical condition unre-

- 1 lated to any ingested alcohol or drugs.
- 2 (m) It shall not be a defense that the person did not understand the  
3 written or oral notice required by this section.
- 4 (n) No test results shall be suppressed because of technical irregu-  
5 larities in the consent or notice required pursuant to this act.
- 6 (o) Nothing in this section shall be construed to limit the admissibility  
7 at any trial of alcohol or drug concentration testing results obtained pur-  
8 suant to a search warrant.
- 9 (p) Upon the request of any person submitting to testing under this  
10 section, a report of the results of the testing shall be made available to  
11 such person.
- 12 (q) This act is remedial law and shall be liberally construed to pro-  
13 mote public health, safety and welfare.
- 14 Sec. 2. K.S.A. 8-1014 is hereby amended to read as follows: 8-1014.
- 15 (a) Except as provided by subsection (e) and K.S.A. 8-2,142, and amend-  
16 ments thereto, if a person refuses a test, the division, pursuant to K.S.A.  
17 8-1002, and amendments thereto, shall:
- 18 (1) On the person's first occurrence, suspend the person's driving  
19 privileges for one year;
- 20 (2) on the person's second occurrence, suspend the person's driving  
21 privileges for two years;
- 22 (3) on the person's third occurrence, suspend the person's driving  
23 privileges for three years;
- 24 (4) on the person's fourth occurrence, suspend the person's driving  
25 privileges for 10 years; and
- 26 (5) on the person's fifth or subsequent occurrence, revoke the per-  
27 son's driving privileges permanently.
- 28 (b) Except as provided by subsections (c) and (e) and K.S.A. 8-2,142,  
29 and amendments thereto, if a person fails a test or has an alcohol or drug-  
30 related conviction in this state, the division shall:
- 31 (1) On the person's first occurrence, suspend the person's driving  
32 privileges for 30 days, then restrict the person's driving privileges as pro-  
33 vided by K.S.A. 8-1015, and amendments thereto, for an additional 330  
34 days;
- 35 (2) on the person's second, third or fourth occurrence, suspend the  
36 person's driving privileges for one year and, ~~commencing July 1, 2001,~~  
37 ~~then~~ at the end of the suspension for an alcohol-related conviction, restrict  
38 the person's driving privileges for one year to driving only a motor vehicle  
39 equipped with an ignition interlock device. *Prior to issuing such restricted*  
40 *license, the division shall receive proof of the installation of such device.*  
41 *If proof of such installation is not received by the division by the end of*  
42 *such year, the suspension shall be extended for one year. If proof of in-*  
43 *stallation of such device is received by the division during the second year*

1 ~~of the suspension, the division shall restrict the person's driving privileges~~  
2 ~~for the balance of such second year to driving only a motor vehicle~~  
3 ~~equipped with an ignition interlock device~~ **Proof of the installation of**  
4 **such device shall be provided to the division before the person's**  
5 **driving privileges are fully reinstated;** and

6 (3) on the person's fifth or subsequent occurrence, the person's driv-  
7 ing privileges shall be permanently revoked.

8 (c) Except as provided by subsection (e) and K.S.A. 8-2,142, and  
9 amendments thereto, if a person who is less than 21 years of age fails a  
10 test or has an alcohol or drug-related conviction in this state, the division  
11 shall suspend the person's driving privileges for one year.

12 (d) Whenever the division is notified by an alcohol and drug safety  
13 action program that a person has failed to complete any alcohol and drug  
14 safety action education or treatment program ordered by a court for a  
15 conviction of a violation of K.S.A. 8-1567, and amendments thereto, the  
16 division shall suspend the person's driving privileges until the division  
17 receives notice of the person's completion of such program.

18 (e) Except as provided in K.S.A. 8-2,142, and amendments thereto,  
19 if a person's driving privileges are subject to suspension pursuant to this  
20 section for a test refusal, test failure or alcohol or drug-related conviction  
21 arising from the same arrest, the period of such suspension shall not  
22 exceed the longest applicable period authorized by subsection (a), (b) or  
23 (c), and such suspension periods shall not be added together or otherwise  
24 imposed consecutively. In addition, in determining the period of such  
25 suspension as authorized by subsection (a), (b) or (c), such person shall  
26 receive credit for any period of time for which such person's driving  
27 privileges were suspended while awaiting any hearing or final order au-  
28 thorized by this act.

29 If a person's driving privileges are subject to restriction pursuant to  
30 this section for a test failure or alcohol or drug-related conviction arising  
31 from the same arrest, the restriction periods shall not be added together  
32 or otherwise imposed consecutively. In addition, in determining the pe-  
33 riod of restriction, the person shall receive credit for any period of sus-  
34 pension imposed for a test refusal arising from the same arrest.

35 (f) If the division has taken action under subsection (a) for a test  
36 refusal or under subsection (b) or (c) for a test failure and such action is  
37 stayed pursuant to K.S.A. 8-259, and amendments thereto, or if tempo-  
38 rary driving privileges are issued pursuant to K.S.A. 8-1020, and amend-  
39 ments thereto, the stay or temporary driving privileges shall not prevent  
40 the division from taking the action required by subsection (b) or (c) for  
41 an alcohol or drug-related conviction.

42 (g) Upon restricting a person's driving privileges pursuant to this sec-  
43 tion, the division shall issue a copy of the order imposing the restrictions

1 which is required to be carried by the person at any time the person is  
2 operating a motor vehicle on the highways of this state.

3 (h) Any person whose license is restricted to operating only a motor  
4 vehicle with an ignition interlock device installed may operate an em-  
5 ployer's vehicle without an ignition interlock device installed during nor-  
6 mal business activities, provided that the person does not partly or entirely  
7 own or control the employer's vehicle or business. ~~The provisions of this~~  
8 ~~subsection shall be effective on and after July 1, 2001.~~

9 Sec. 3. K.S.A. 8-1015 is hereby amended to read as follows: 8-1015.

10 (a) When subsection (b)(1) of K.S.A. 8-1014, and amendments thereto,  
11 requires or authorizes the division to place restrictions on a person's driv-  
12 ing privileges, the division shall restrict the person's driving privileges to  
13 driving only under the circumstances provided by subsections (a)(1), (2),  
14 (3) and (4) of K.S.A. 8-292 and amendments thereto.

15 (b) In lieu of the restrictions set out in subsection (a), the division,  
16 upon request of the person whose driving privileges are to be restricted,  
17 may restrict the person's driving privileges to driving only a motor vehicle  
18 equipped with an ignition interlock device, approved by the division and  
19 obtained, installed and maintained at the person's expense. *Prior to is-*  
20 *ssuing such restricted license, the division shall receive proof of the in-*  
21 *stallation of such device.*

22 (c) When a person has completed the one-year suspension pursuant  
23 to subsection (b)(2) of K.S.A. 8-1014, and amendments thereto, the di-  
24 vision shall restrict the person's driving privileges for one year to driving  
25 only a motor vehicle equipped with an ignition interlock device, approved  
26 by the division and maintained at the person's expense. *Prior to issuing*  
27 *such restricted license, the division shall receive proof of the installation*  
28 *of such device. If proof of such installation is not received by the division*  
29 *by the end of such year, the suspension shall be extended for one year. If*  
30 *proof of installation of such device is received by the division during the*  
31 *second year of the suspension, the division shall restrict the person's driv-*  
32 *ing privileges for the balance of such second year to driving only a motor*  
33 *vehicle equipped with an ignition interlock device* **Proof of the instal-**  
34 **lation of such device shall be provided to the division before the**  
35 **person's driving privileges are fully reinstated.**

36 (d) Upon expiration of the period of time for which restrictions are  
37 imposed pursuant to this section, the licensee may apply to the division  
38 for the return of any license previously surrendered by the licensee. If  
39 the license has expired, the person may apply to the division for a new  
40 license, which shall be issued by the division upon payment of the proper  
41 fee and satisfaction of the other conditions established by law, unless the  
42 person's driving privileges have been suspended or revoked prior to  
43 expiration.

- 1     Sec. 4. K.S.A. 8-1014 and 8-1015 and K.S.A. 2005 Supp. 8-1001 are
- 2 hereby repealed.
- 3     Sec. 5. This act shall take effect and be in force from and after its
- 4 publication in the statute book.

# KANSAS

DEPARTMENT OF TRANSPORTATION  
DEB MILLER, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

## TESTIMONY BEFORE SENATE JUDICIARY COMMITTEE

### REGARDING HOUSE BILL 2916 DRIVING UNDER THE INFLUENCE RELATING TO IGNITION INTERLOCK DEVICES

March 9, 2006

Mr. Chairman and Committee Members:

I am Terry Heidner, Director of Planning and Development. On behalf of the Kansas Department of Transportation (KDOT), I am here to provide testimony as a neutral party to HB 2916 as amended by House Judiciary Committee; driving under the influence (DUI); related to ignition interlock devices.

This bill as originally proposed in the House, would have caused Kansas to be in non-compliance with federal requirements for repeat DUI offenders. Noncompliance with this federal requirement would result in a transfer of highway construction funds to safety programs that address alcohol-impaired driving or hazard elimination projects. Based on current federal funding levels in SAFETEA-LU, approximately \$7 million per year would be transferred out of construction funding or \$30 million over the remaining life of the Comprehensive Transportation Program (CTP).

However, we worked with the bill proponents and language was amended into the bill in the House that allows us to remain in federal compliance. We therefore, are not opposed to the current version.

We have also checked additional language changes being proposed by the bill proponents and they will not take us out of federal compliance.

KDOT's interest in this bill is simply that it not take us out of compliance with federal requirements which would cause the loss of \$7 million per year for highway construction purposes.

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Senate Judiciary

3-9-06

Attachment 3



# K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE  
DIVISION OF VEHICLES

KATHLEEN SEBELIUS, GOVERNOR

**TO:** Chairman John Vratil  
Members of the Senate Judiciary Committee

**FROM:** Marcy Ralston, Chief, Driver Control Bureau  
Division of Vehicles

**DATE:** March 9, 2006

**SUBJECT:** House Bill 2916 – Ignition Interlock Device

Thank you Mr. Chairman and Committee Members. My name is Marcy Ralston, and I serve as the Chief of the Driver Control Bureau, Division of Vehicles, Department of Revenue. The Division stands neutral on House Bill 2916. However, the current version of this bill raises several administrative concerns and we appreciate the opportunity to address those concerns with you today.

Under current Kansas law, a second, third or fourth DUI conviction or chemical test failure requires a person's driving privileges to be suspended for a one-year period. Immediately following the suspension, the person's privileges are automatically restricted to only operate a motor vehicle equipped with an ignition interlock device. The person's driving record is updated to reflect this type of restricted driving status. The privileges are reinstated, in full, after the one-year restriction. If the person chooses to operate a vehicle without an ignition interlock device during the one year restriction period, they run the risk of being caught without it, and if convicted of that offense, their driving privileges are suspended for a two year period. This bill retains the same one-year suspension followed by the same one year interlock restriction; however, the person's driving privileges cannot be reinstated in full until proof of installation of the ignition interlock device is provided to the division. If a person did not install the device, we would respectfully ask clarification as to what the person's driving status should be from the expiration of the restriction period until proof of installation. We cannot leave the driving privilege status as "restricted" because the statute only allows for a one-year restriction period; nor, can we reinstate the privileges and make the status valid if the person has not had the device installed. We need to have some type of status indicator, not only for our records, but also for law enforcement, employers, insurance companies, etc.... or anyone who may need to access the record. Further, this bill would actually force a person to have to buy a vehicle to have the ignition interlock device installed, in order to have their driving privileges reinstated.

DOCKING STATE OFFICE BUILDING, 915 SW HARRISON ST., TOPEKA, KS 66612-1588  
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Senate Judiciary

3-9-06

Attachment 4

There is no other Kansas law that requires a person to make that type of purchase to reinstate their driving privileges. In addition, there is no requirement for the person to maintain the device on their vehicle for a specified period of time. This means a person could get the device installed, send notice to the Division, have their driving privileges reinstated and then have the device removed, which could all possibly occur on the same day. This appears to deviate from the intent of public safety of having a repeat offender actually operate a vehicle with an ignition interlock device.

The Division of Vehicles is certainly supportive of any and all measures taken to reduce repeat alcohol offenders. We appreciate the consultation and efforts of the Kansas Ignition Interlock Association to increase the number of interlock devices actually installed on the vehicles of repeat offenders. We are open to any suggestions to make this bill more administratively effective.

Thank you for the opportunity to speak on this bill and I stand for any questions.



# State of Kansas

**Rep. Shari Weber**  
68th District  
405 E. Lewerenz  
Herington, KS 67449  
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## House of Representatives

Testimony for Senate Judiciary Committee  
HB # 2938

March 9, 2006

Chairman Vratil and Members of the Committee,

Thank you for the opportunity to present my support for HB 2938, an act regarding driving while suspended or revoked. I bring this bill to your attention because of the troubling number of drivers in our state who repetitively drive with licenses that have been suspended or revoked.

In the late 1990's this section of the statutes was changed to reflect a lesser penalty for repetitive violations regarding a suspended or revoked driver's license. Prior to this time the offense carried a felony charge. This bill endeavors to reinstate a stronger penalty for repetitive violations because of all of the anecdotal and documented infractions.

It has been my opinion that mandatory time spent in a county jail would serve to impart a penalty substantial enough to deter such illegal behavior. Often times a driver's license may be suspended or revoked because a traffic citation carrying a fine goes unpaid. Because of the current law, little attention is paid to making payment of other fines so as to retain a driver's license in good standing. Driving is a privilege in our state and should be regarded as such. This bill proposes that any person repetitively driving while having a suspended driver's license would spend 5 days in a county jail if convicted. There would be no diversion from that penalty of mandatory jail time and the conviction would also carry a \$100 fine. You may argue that such a penalty is harsh for negligence; however, I would submit that driving in our state is a privilege and in order to maintain that privilege you must obey the laws which determine a valid driver's license.

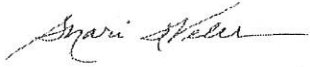
The change would apply to the second conviction of this nature, the penalty would again be a misdemeanor and the conviction shall not be eligible for parole until completion of 5 days' imprisonment. The third or subsequent conviction shall carry a nonperson felony and the individual shall also be sentenced to not less that 90 days nor more than one year's imprisonment and fined not less that \$1500 or more than \$2500. The bill also makes provision for the imprisonment to be served in a work release program after the person has served 48 consecutive hours' imprisonment, and provided such work release program requires the person to return to confinement at the end of each day in the work release program. The bill also gives the court the option to place the person convicted under a house arrest program to serve the remainder of the minimum sentence only after the person has served 48 consecutive hours' imprisonment.

Senate Judiciary

3-9-06  
Attachment 5

I present this change in the law to you as members of the local government committee, for these penalties would be served at the local level, not in state institutions. Although this would present challenges and expenses for local law enforcement, I believe the trade-off of harsher penalties for this infraction would yield greater compliance with driver's license parameters and therefore enhance local and state public safety. I ask you to give this proposal your favorable consideration. Thank you for your time spent to review this statewide legislative change with local impact.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Shari Weber", written in black ink.

Shari Weber  
Representative, 68<sup>th</sup> District



# K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE  
DIVISION OF VEHICLES

KATHLEEN SEBELIUS, GOVERNOR

DATE: February 21, 2006  
RE: House Bill 2938  
Statistics on licenses issued, withdrawals & convictions

	<u>1998</u>	<u>2005</u>	
Number of Kansas licensed drivers	1.8 million	2 million	1% increase
Number of withdrawals (includes suspensions, revocations, cancellations, disqualifications & restrictions)	108, 600	116, 978	1% increase
Number of convictions for driving while suspended	9623	12, 403	3% increase
Number of convictions for driving while revoked	110	544	400% increase
Number of convictions for driving While revoked as a habitual violator	687	988	4% increase

DOCKING STATE OFFICE BUILDING, 915 SW HARRISON ST., TOPEKA, KS 66612-1588  
Voice 785-296- 3601 Fax 785-291-3755 <http://www.ksrevenue.org/>

5-23

Law Offices of  
**DISTRICT ATTORNEY**  
Third Judicial District  
Shawnee Co. Courthouse, 200 SE 7<sup>th</sup> Street  
Second Floor, Suite 214  
TOPEKA, KANSAS 66603

Robert D. Hecht  
District Attorney

Karen C. Wittman  
Senior Assistant District Attorney  
Traffic Division  
785 233-8200 x4330  
www.shawneecountyda.org

March 9, 2006

**TESTIMONY-HB 2938**  
**Amending K.S.A. 8-262, K.S.A. 8-287 and K.S.A. 21-4704**  
**DRIVING WHILE SUSPENDED/REVOKED AND INJURY REPARATIONS**

Good Morning, Mr. Chairman and Members of the Judiciary Committee.

My name is Karen Wittman. I am a Senior Assistant District Attorney in Shawnee County under District Attorney Robert Hecht. I am the attorney in charge of all traffic related offenses.

HB 2938 should not be adopted as it pertains to K.S.A. 8-262 and K.S.A. 8-287

The current law is sufficient to handle repeat offenders who continue to drive on a suspended license.

Last year the Shawnee County District Attorney's Office filed 241 cases of Driving While Suspended 2<sup>nd</sup> Offense. A good majority of these cases dealt with a person who had multiple violations of driving while suspended (DWS). I do not file any cases dealing with driving while habitual violators. (DWH)

At this time, it is an A misdemeanor for DWS 2<sup>nd</sup> or DWH. An "A" misdemeanor carries a potential sentence of 1 year in jail and a \$2500 fine. For a DWS 2<sup>nd</sup> offense the current law allows for a mandatory sentence of 5 days.

A jail sentence for 3<sup>rd</sup> or subsequent offenders could be imposed to accommodate repeat offenders without labeling everyone a FELON.

I would propose the following:

1. Do not make it a felony for repeat offenders of DWS and DWH.
2. Allow for enhanced penalty for repeat offender for DWH.
3. If you feel it necessary you could make a mandatory sentence for either type of repeat offender.
4. Change the language of K.S.A. 8-262(4) as follows:

(4) If a person: (A) Is convicted of a violation of this section, committed while the person's privilege to drive or privilege to obtain a driver's license was suspended or revoked for a violation of K.S.A. 8-1567 and amendments thereto, or any ordinance of any city or resolution of any county or a law of another state, which ordinance or law prohibits the acts prohibited by that statute; and (B) is or has been also convicted of a violation of K.S.A. 8-1567, and amendments thereto, or of a municipal ordinance or law of another state, which ordinance or law prohibits the acts prohibited by that statute, committed while the person's privilege to drive or privilege to obtain a driver's license was so suspended or revoked, **or (C) is suspended for refusal to submit to a test for alcohol or drugs**, the person shall not be eligible for suspension of sentence, probation or parole until the person has served at least 90 days' imprisonment, and any fine imposed on such person shall be in addition to such a term of imprisonment.

Senate Judiciary

3-9-06

Attachment 6

OFFICE OF THE



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UNDERSHERIFF

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KENNETH L. MASSEY  
UNDERSHERIFF

3601 E. 25TH STREET  
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PHONE: (785) 830-1000  
FAX: (785) 830-1085

March 7, 2006

RE: HB 2938

Dear Senate Judiciary Committee:

The Kansas Sheriff's Association comes forward in support of HB 2938. This bill would increase the severity levels for repeat offenders of Driving While Suspended or revoked.

Many times repeat offenders that are arrested for Driving While Suspended or revoked are committing other crimes, which commonly include DUI, No Liability Insurance, etc... These individuals do not simply stop driving on Kansas roadways.


Current law provides minimal consequences for repeat violators. Therefore, HB 2938 increases sentencing for these offenders and creates a level of accountability.

Recently the Kansas Sheriff's Association has opposed legislation that places more felony violators in our county jails. However, we realize that there is not room in our state prison system to house felony driving while revoked violators and would rather see the state prison space utilized for more serious felony violators. There comes a point when the punishment should fit the crime, and this is one of those times.

We would ask that this bill be passed out of committee favorably. Please help us to make Kansas roadways safer.

Sincerely,

Randy L. Rogers  
Legislative Chair

  
Kenneth M. McGovern  
Douglas County Sheriff

Senate Judiciary

3-9-06

Attachment 7