

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Lance Kinzer at 3:30 p.m. on March 4, 2009, in Room 143-N of the Capitol.

All members were present except:

Representative Pat Colloton- excused

Committee staff present:

Melissa Doeblin, Office of the Revisor of Statutes

Matt Sterling, Office of the Revisor of Statutes

Jill Wolters, Office of the Revisor of Statutes

Athena Andaya, Kansas Legislative Research Department

Jerry Donaldson, Kansas Legislative Research Department

Sue VonFeldt, Committee Assistant

Conferees appearing before the Committee:

Matt Strausz, Kansas Interlock Association

Dale Beller, Individual (Victim Impact)

Darrell Smith, Kansas Association of Criminal Defense Lawyers

Kevin Barone, Capitol Lobby Group (LLC)

Ed Klumpp, Kansas Association of Chiefs of Police and Kansas Peace Officers Association

Sandy McCurdy, 10th Judicial District, Clerk of Court, Johnson County

Others attending:

See attached list.

The hearing on **HB 2315 - Restricting driving privileges for persons for refusal, failure or high BAC in test to driving with ignition interlock devices** was opened.

Jill Wolters, Staff Revisor, presented an overview of the bill and provided a chart to display the relation of driving privilege suspension or restriction periods, the refusal, failure and convictions of driving under the influence (DUI), and a scale of continued DUI's that result in permanent revocation of driving privileges. (Attachment 1)

Proponents:

Matt Strausz, President of Kansas Ignition Interlock Association, appeared as a proponent of the bill. He is also the General Manager of Smart Start of Kansas, Smart Start of Nebraska and 1-A Secure Offender Monitoring. Their interest is not solely for monetary gains, but to eliminate drunk driving in Kansas. Interlocks are not just a penalty but are a behavior modification tool also. While interlocks don't prevent someone from drinking it does prevent them from drinking and driving and THAT saves lives. This bill shortens the suspension periods for alcohol related convictions however the balance of the punitive period is served on the ignition interlock device. Other states have implemented with impressive results. New Mexico's alcohol related fatalities dropped by over thirty percent after their implementation of similar legislation. (Attachment 2)

Dale Beller, an individual from Nebraska, spoke in support of the Ignition Interlock initiative. He shared his sorrow of losing his parents seven years ago due to a drunken driver in New Mexico. They later found out the drunk driver had been convicted of DUI nine times. The usage of the interlock device started in New Mexico, where his parents were killed, and since then Arizona, Illinois, Louisiana and Nebraska have followed suit with the passage of Ignition Interlock bills. His testimony also includes a statement letter from Jerry Beller, a brother to the deceased DUI victim. The Beller Family met with the governor of New Mexico to institute the Ignition Interlock usage into law and are also comforted to know Nebraska also implemented the ignition interlock legislation. They support the fact the Ignition Interlock allows the DUI offender to continue to drive to work to support his family, continue their normal lives, but without the presence of alcohol. (Attachment 3)

Darrell Smith, spoke as a proponent on behalf of the Kansas Association of Criminal Defense Lawyers. He has concern to the change reflected in K.S.A. 8-1014(b)(1), changing the suspension period for the first

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Minutes of the House Judiciary Committee at 3:30 p.m. on March 4, 2009, in Room 143-N of the Capitol.

time offenders from thirty days to forty-five days. He stated Kansas law currently has, depending on the age of the offender, fifty different combinations of suspension/ignition interlock and restriction periods. To add another time period seems to be adding complexity for no reason and any time complexity is adopted, litigation will be the ultimate, easily foreseen, result. He also stated a concern with respect to the modification suggested in K.S.A. 8-1014(k)(5)(a), the warnings section does not seem to be amended to be consistent with the changes to the law reflected in K.S.A. 8-1014(b)(1). He also suggested the number of driver's license administrative hearings might be curtailed dramatically if a provision was allowed to go straight to Ignition Interlock and forgo the driver's license hearing and suspension period. (Attachment 4)

Kevin Barone, Capitol Lobby Group (LLC), spoke as a proponent in support of the bill. He also provided two charts to explain the variables of the bill. He also encouraged the members to read each of the written only testimony that support this bill. (Attachment 5)

Written Only Proponents:

Laura Dean Mooney, Mothers Against Drunk Driving (MADD) (Attachment 6)

Dick Roth-DWI Research Consultant, Santa Fe, New Mexico (Attachment 7)

Lt. Russell L. Zeeb, Day Patrol Commander, Office of Sheriff, Sarpy County, Nebraska (Attachment 8)

Sonya L. Strickland, DUI Attorney- Joseph & Hollander. (Attachment 9)

Neutral Written Only:

Ralph Blackman, President and CEO of The Century Council, Distillers Fighting Drunk Driving and Underage Drinking (Attachment 10)

Opponents:

Ed Klumpp, representing the Kansas Association of Chiefs of Police and Kansas Peace Officers Association spoke as an opponent, not because they are opposed to Ignition Interlock, but because they are concerned about reduction in suspension penalties for test refusal. They believe this amendment will result in increased test refusals. He also advised the Senate is currently working a bill, which will probably be coming to the House, that establishes a group of professionals to look at the entire spectrum of the DUI penalties and treatment provisions of the law. Therefore, they suggest the recommendations of this bill should be referred to that group for study and that no action should be taken at this time on this bill. (Attachment 11)

Chairman Kinzer asked Matt Strausz to describe and explain how the Ignition Interlock works.

The staff was asked to provide additional information regarding current law and also metabolizing in regards to alcohol.

Carmen Alldritt -Director of Vehicles, Marcy Ralston -Chief, Driver Control Bureau, and, Chris Bortz, Assistant Bureau Chief for the Traffic Safety Division-Department of Transportation were present and able to provide answers to some of the questions asked by the committee members. Marcy Ralston explained the interlock compliance officially starts when their Department gets notification the unit is installed. Marcy subsequently provided additional information to the committee regarding ignition interlock requirements and compliance for the calendar year 2008. (Attachment 12)

Most of the following additional information was provided by Matt Strausz in response to many questions from the committee members:

- An ignition interlock device costs \$150, plus \$70 to install and requires a monthly maintenance fee of \$70 per month.
- Every sixty days the driver must have the device rechecked and pay their monthly maintenance fee.
- A driver must be taught how to use the device (a combined blow and hum) and is a learned process.
- The company provides a twenty-four hour service. One or two out of a hundred may have a problem with the device for about a month. Ninety-five percent of the problems can be handled by phone.
- Every test has a date and time on it. A trip from Topeka to Emporia would require three to four tests.
- The device gives a Pass, Warn, Failure and Violation response depending on the level of alcohol.

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- The device only checks alcohol content and no other drugs.
- Airline pilots are not allowed to have alcohol drinks eight hours prior to flying a plane.
- If you have multiple vehicles, you can pay to have a device installed and maintained on each vehicle and a discount is offered for multiple devices.

The hearing on **HB 2315** was closed.

The hearing on **SB 66 - Change of venue in care and treatment cases; transmittal of documents** was opened.

Sandy McCurdy, Clerk of the District Court, Johnson County, 10th Judicial District, spoke on behalf of the Kansas Association of District Court clerks and Administrators, as a proponent in support of the bill.

This bill amends two statutes: K.S.A. 59-2971, regarding care and treatment for mentally ill persons, and K.S.A. 59-29b71, regarding care and treatment for persons with an alcohol or substance abuse problem. These changes in this bill would simplify and update the process the clerks presently use by allowing documents to be sent by fax or electronic copy and save time by eliminating duplicate steps and save cost of postage. (Attachment 13)

The hearing on **SB 66** was closed.

The next meeting is scheduled for March 5, 2009.

The meeting was adjourned at 5:15 p.m.

JUDICIARY COMMITTEE GUEST LIST

DATE: 3-4-09

NAME	REPRESENTING
Kevin Bovee	KIIA
Darrell Smith	KACDL
Matt Casey	GBA
John C. Bottelby	Schubert & Assoc
Ed Klumpp	KACP KPOA
Mary Balst	KDOR
Jennifer Hermann	KDOR-DMV
Carmen Aldritt	KDOR-DMV
Sandy McCurdy	KADCCA
Alice Adams	KADCCA
Laver Wilson	Judicial Branch
Ted Smith	KDOR
Brynn Miller-Glen	Raj Goff
Alicia Jones	Intern M. Crow
SEAN MILLER	CAPITAL STRATEGIES
Collie Corso	Hearney & Associates, Inc.
Chris Bortz	KDOT
MIKE LINDBLAD	KIIA
MATT STRAUSS	KIIA

JUDICIARY COMMITTEE GUEST LIST

DATE: 3-4-09

NAME	REPRESENTING
Stephanie Mickelsen	Ks Sec of State
Jesse Boyer	Sec. of State

HB 2315

	REFUSAL bill/current law		FAILURE bill/current law		FAILURE High BAC bill/current law	
	Suspend	Restrict	Suspend	Restrict	Suspend	Restrict
first	30 days /1 year	2 years/ 1 year	45 days/ 30 days	1 year/330 days	45 days/1 year	2 years/ 1year
second	1 year /2 years	3 years/ 0	1 year/1 year	2 years/1 year	1 year/1 year	3 years/2 years
third	1 year /3 years	4 years/ 0	1 year/1 year	3 year/1 year	1 year/1 year	4 years/3 years
fourth	1 year /10years	5 years/ 0	1 year/1 year	4 year/1 year	1 year/1 year	5 years/4 years
fifth and sub	1 year /perman ent	permanent	1 year/permanent	permanent	1 year/permanent	permanent

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 Attachment # 1

KANSAS IGNITION INTERLOCK ASSN.

March 4, 2009
Testimony For HB 2315
House Judiciary Committee

Matthew T. Strausz
Kansas Ignition Interlock Association

Thank you Mr. Chairman and members of the committee for holding this hearing and for the opportunity to submit testimony to you today in support of HB 2315, requiring ignition interlocks for all convicted drunk drivers in Kansas.

My name is Matt Strausz and I am the president of the Kansas Ignition Interlock Association, as well as the General Manager of Smart Start of Kansas, Smart Start of Nebraska, and 1-A Secure Offender Monitoring. Smart Start of Kansas is a statewide ignition interlock provider. Smart Start of Kansas has been installing and servicing ignition interlock devices since 2002. Smart Start of Nebraska has been in business since 2008, and serves as a statewide ignition interlock provider in Nebraska. Nebraska recently passed similar legislation in 2008.

Many believe that as an interlock provider we are only out for monetary gains by supporting ignition interlock legislation. I, however, also believe in the cause behind eliminating drunk driving in Kansas. Two of my good friends were among the alcohol related fatalities numbers in 2002. Each year hundreds in Kansas and thousands across the United States are needlessly killed by repeat drunk drivers. Technology exists that can and will prevent many of these fatalities, but the ignition interlock can not prevent drunk driving if we do not get them on the vehicles of offenders.

Technology behind the ignition interlock has made incredible headways in the past few years. Ignition interlock devices are now specific to alcohol and use fuel cell technology. This means that the problems of the past, such as car exhaust fumes and cigarette smoke causing violations, have gone by the way side. Ignition interlocks have evolved to the point that now some models include camera's that identify who is taking the tests. With tamper resistant technology and an incredible reporting system integrated into the systems this is truly a different product than we first came to know in the 90's.

In the past seven years of installing and servicing thousands of clients on the ignition interlock program we have realized that they are not just a penalty. Interlocks are a behavior modification tool. The first weekend after an installation we generally get a phone call alerting us that something is not functioning correctly with the device. The device reads "VIOL" (violation) and wont start. Many people who have trained themselves that they are "ok" to drive when they are buzzed truly believe that they are ok to drive after just having a few. These violations are a way of educating people what their limit truly is. We literally get phone calls and letters from family members thanking us for helping bring Dad or Mom home after work in lieu of the nightly trip to the bar. While interlocks don't prevent someone from drinking it does prevent them from drinking and driving and THAT saves lives.

HB2315 helps to reduce drunk driving by requiring that anyone that is convicted of an alcohol related driving offense to have an ignition interlock installed. Getting an ignition interlock installed as quickly as possible on the offenders car is one of the keys to a successful ignition interlock program. Research has shown that 75% of people who have a suspended license will continue to drive. Suspension, although it seems more punitive, only works if the offender abides and does not drive. Truth is in most cases they continue to drive anyway. HB2315 accomplishes the goal of getting a licensed, insured driver back on the road as a productive citizen. Thus being able to retain employment, able to pay court costs and fines, support his/her family and make it to probation meetings as well as alcohol education and treatment.

HB2315 shortens the suspension periods for alcohol related convictions. With shortened suspension

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periods the balance of the punitive period is served on the ignition interlock device. The total period served in most cases is longer than current statute calls for on test refusal or High BAC arrests. Once again, the long suspension periods are only effective if they are abided by.

HB2315 has been proven effective. Other states have implemented similar legislation and the results are drastic and impressive. New Mexico for example has had staggering success with its all convicted ignition interlock bill. Alcohol related fatalities dropped by over 30% after the implementation of their similar legislation. That reflects approximately 35 Kansas lives that could be saved in one year. 35 Kansas lives that we have the ability to save with a single piece of legislation.

ABI sent each one of you a letter that addresses their hope that you do not pass legislation requiring 1st time offenders to have ignition interlock as a form of punishment. They claim that this type of device should be reserved for those who are "hard core" drunk drivers that are blowing twice the legal limit. In 2006 135 deaths, 29% of the alcohol related fatalities, were from drivers whose BAC was between a .08 and a .149. These drivers who have had "one sip of wine over the limit" are indeed just that, over the limit. These drivers are killing innocent victims, which can be prevented with technology that is not only available but relatively inexpensive, around \$2 per day.

Once again I would like to thank you Mr. Chairman and committee members for the opportunity to present testimony to you today. I would like to urge you to vote in favor of HB2315 as I truly believe that with its passage there will be lives here this time next year that would not have been otherwise.

Best,

Matt Strausz

Matt Strausz, President - KIIA

Statement of Dale Beller
Son of Larry and Rita Beller of Lindsay, Nebraska
Killed by a nine-time DUI offender
Regarding
State of Kansas HB2315 (Ignition Interlock Initiative)
March 04, 2009

To the State of Kansas Legislative body:

Thank you for the opportunity of allowing me to express my feelings before you in regards to the Ignition Interlock initiative and what it has meant to me personally and my family.

On January 25th, 2009, it marked the 7 year anniversary when my beloved parents, Larry and Rita Beller, and their friends Bud and Alice Ramaekers, were killed. Mom and Dad and their friends were traveling through New Mexico on their way back to Nebraska from vacationing in Arizona. As they crested a hill heading eastbound on Interstate 40, that's when a man, by the name of Lloyd Larson, was driving his truck down the wrong side of Interstate 40 and smashed his truck into theirs. Both vehicles basically came to a dead stop. All four Nebraskans were killed instantly, Mr. Larson miraculously survived.

Come to found out in the following days after, we learned that not only was Mr. Larson legally drunk at the time of the crash, but it was not his first time. He had been convicted of DUI 9 times.

To all that hear me today, you know this type of behavior must not be tolerated. I am not willing to risk my life, nor my children's lives, sharing our roads with repeat offenders, nor first-time offenders. I would have to believe you would feel the same!!

That is why the Beller family is a very supportive of the Ignition Interlock device being placed on all convicted drunk drivers. The offender simply has to blow into the device in order for the vehicle to start. The offender can then do anything the rest of us on the roads can do: go to and from work, go to the grocery store, pick up the kids from school, etc. What the device doesn't allow is for the offender to drive after drinking. Its such a simple concept on how it can save innocent lives. However, it's a shame to me that this technology wasn't available back in January 2002 else my Mom and Dad would be alive today. They have already missed so much that has happened in the last seven years since their tragic death. Holidays, graduations, new grandchildren, ballgames, etc. None of you here can know how I feel unless you were in my shoes.

But the fact of the matter is although my parents are no longer with us today, their death may have been an awakening we can always look back on. We are seeing more and more states joining in on the usage of the Ignition Interlock device. It all started with New Mexico, the state where my parents were killed. They have seen a substantial reduction in drunk drinking crashes and fatalities. And now the states of Arizona, Illinois, Louisiana, and my home state of Nebraska have now followed suit with the passage of

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Ignition Interlock bills. When LB736 was voted on in Nebraska, the vote count was 46-0. That's a 'score' any Nebraskan would be proud of.

So in closing, the Beller family feels that the State of Kansas needs to be included on this growing list of states to keep convicted drunk drivers from continuing to endanger the public, as well as themselves. The usage of an Ignition Interlock will save lives and relieves the grief one has to deal with when coping with the loss of a loved one from a drunk driver.

Thank you again for this opportunity to speak on behalf of my parents. May they rest in peace.

Dale Beller
Omaha, NE

Statement of Jerry Beller

To the State of Kansas Legislative body:

Thank you for the opportunity to present testimony to this body. It is my understanding you are considering the ignition interlock usage into law in an effort to reduce DUI violations and save lives.

Here in Nebraska, we have implemented the ignition interlock into law and went into effect on January 1 of this year.

The Beller Family has been instrumental and very much involved in bringing this device into law.

On January 25, 2002, at 2:48 p.m., our family received the heartbreaking calls our brother Larry and sister-in-law Rita and our cousins, a drunk driver in New Mexico killed Bud and Alice Rameakers at that time. The DUI offender had been convicted nine previous times of the same drinking and driving violation.

Our family members met with the Governor of New Mexico encouraging the New Mexico Legislature to institute the ignition interlock usage into law. Since New Mexico has made this into law, DUI offenders has greatly reduced.

Our Family will never forget that horrible day in New Mexico and the many difficult events from it.

It seems the continuous violation of DUI events announced in daily newscasts and newspapers is not enough to deter our society from the abuse of alcohol excess.

The loss of our loved ones lives will not be forgotten, there is comfort knowing this law implemented here in the State of Nebraska for 1st time DUI offenders may save the lives of innocent victims and the life of the offender.

The use of the ignition interlock allows the DUI offender, to continue to drive to work to support his or her family, to continue their normal life styles, but without the presence of alcohol.

I am proud to be a part of the effort to save others lives and avoid the horrible heartbreak we've had to endure.

Jerry Beller

Loving brother of Larry and Rita Beller, May They Rest in Peace
jbcont@aol.com

House Judiciary Committee
March 4, 2009

Testimony of the Kansas Association of Criminal Defense Lawyers
in Support of HB 2315

The Kansas Association of Criminal Defense Lawyers is a 300-person organization dedicated to justice and due process for those accused of crimes. For the reasons set forth below, KACDL is in **support** of House Bill 2315, which would amend K.S.A. 8-1014 to allow the expansion of ignition interlock licensing.

1. The Kansas Association of Criminal Defense Lawyers is in support of this bill. The proposed changes should lead to expanded future compliance with respect to suspension periods, and provide citizens with legal avenues for driving. At present, such individuals are placed in positions where reinstatement is either not a legal possibility or not a realistic possibility.
2. A specific concern with respect to this bill is the change reflected in 8-1014(b)(1), changing the suspension period for first time offenders from thirty (30) to forty-five (45) days. This change doesn't seem to be based upon any rationale except for the sake of change. Kansas law currently has, depending upon the age of the offender, fifty different combinations of suspension/ignition interlock and restriction periods. To add another time period seems to be adopting additional complexity for no reason. Any time such complexity is adopted, litigation will be the ultimate, easily foreseen, result.
3. With respect to first time offenders the number of driver's license administrative hearings might be curtailed dramatically if a provision was allowed to go straight to ignition interlock and forego the driver's license hearing and suspension period. Also it is a concern that with respect to the modification suggested in K.S.A. 8-1014(k)(5)(a), the warnings section does not seem to be amended to be consistent with the changes to the law reflected in 8-1014(b)(1). Kansas Association of Criminal Defense Lawyers is unaware of any studies which show any significant impact, in terms of traffic safety, brought about by the additional fifteen (15) day suspension which would be required of first time offenders, the majority of which are less subject to recidivism than subsequent offenders.

Overall, and on balance, this bill is a step in the right direction towards furthering compliance with Kansas licensing law.

Respectfully Submitted,

Darrell Smith
dsmith16@sbcglobal.net
913.397.6333
On behalf of KACDL

HB2315	Refusal		Failure/Conviction >.08		Failure/Conviction > 0.15	
	Suspended	Interlock	Suspended	Interlock	Suspended	Interlock
First Occurrence (current)	1 yr.	1 yr.	30 days	-	1 yr.	1 yr.
HB2315 Amendments	30 days	2 yrs.	45 days	1 yr.	45 days	2 yrs.
Second Occurrence (current)	2 yrs.	-	1 yr.	1 yr.	1 yr.	2 yrs.
HB2315 Amendments	1 yr.	3 yrs.	1 yr.	2 yrs.	1 yr.	3 yrs.
Third Occurrence (current)	3 yrs.	-	1 yr.	1 yr.	1 yr.	3 yrs.
HB2315 Amendments	1 yr.	4 yrs.	1 yr.	3 yrs.	1 yr.	4 yrs.
Fourth Occurrence (current)	10 yrs	-	1 yr.	1 yr.	1 yr.	4 yrs.
HB2315 Amendments	1 yr.	5 yrs.	1 yr.	4 yrs.	1 yr.	5 yrs.
Fifth & Subsq. Occurrence	Revocation	-	Revocation	-	Revocation	-
HB2315 Amendments	1 yr.	Permanent	1 yr.	Permanent	1 yr.	Permanent

HB2315 HB2263	Refusal		Failure/Conviction > .08		Failure/Conviction > 0.15	
	Suspended	Interlock	Suspended	Interlock	Suspended	Interlock
First Occurrence (current)	1 yr.	1 yr.	30 days	-	1 yr.	1 yr.
HB2263 Amendments	2 yrs.	1 yr.	30 days	-	1 yr.	1 yr.
HB2315 Amendments	30 days	2 yrs.	45 days	1 yr.	45 days	2 yrs.
Second Occurrence (current)	2 yrs.	-	1 yr.	1 yr.	1 yr.	2 yrs.
HB2263 Amendments	5 yrs.	-	1 yr.	1 yr.	1 yr.	2 yrs.
HB2315 Amendments	1 yr.	3 yrs.	1 yr.	2 yrs.	1 yr.	3 yrs.
Third Occurrence (current)	3 yrs.	-	1 yr.	1 yr.	1 yr.	3 yrs.
HB2263 Amendments	Revocation	-	3 yrs.	2 yrs.	3 yrs.	3 yrs.
HB2315 Amendments	1 yr.	4 yrs.	1 yr.	3 yrs.	1 yr.	4 yrs.
Fourth Occurrence (current)	10 yrs.	-	1 yr.	1 yr.	1 yr.	4 yrs.
HB2263 Amendments	Revocation	-	Revocation	-	Revocation	-
HB2315 Amendments	1 yr.	5 yrs.	1 yr.	4 yrs.	1 yr.	5 yrs.
Fifth & Subsq. Occurrence	Revocation	-	Revocation	-	Revocation	-
HB2263 Amendments	Revocation	-	Revocation	-	Revocation	-
HB2315 Amendments	1 yr.	Permanent	1 yr.	Permanent	1 yr.	Permanent



MADD
Activism | Victim Services | Education

CAMPAIGN TO ELIMINATE DRUNK DRIVING

**Testimony of Laura Dean-Mooney
National President
Mothers Against Drunk Driving
Before the House Judiciary Committee
In Support of HB 2315
March 4, 2009**

Thank you Mr. Chairman and members of the committee for holding this important hearing and for the opportunity to submit testimony to you today in support of HB 2315, requiring ignition interlocks for all first time convicted drunk drivers.

In 2007, over 114 people were killed in drunk driving crashes in Kansas. This means 27 percent, or more than one in four, of all traffic fatalities were drunk driving related. That's 114 people who could be alive today as this crime is 100 percent preventable.

Campaign to Eliminate Drunk Driving

The good news is that we can finally put an end to drunk driving – forever. In November of 2006, MADD launched its *Campaign to Eliminate Drunk Driving*. The Campaign consists of four components:

- Full implementation of current alcohol ignition interlock technologies for all convicted drunk drivers. A key part of this effort will be working with judges, prosecutors and state driver's license officials to stop the revolving door of repeat offenders;
- Intensive highly-visible law enforcement activities, including twice-yearly crackdowns and frequent enforcement efforts that include sobriety checkpoints and saturation patrols in all 50 states;
- Exploration and development of advanced vehicle-based technology that will detect if a driver has an illegal alcohol level of .08 BAC or above and will prevent that driver from operating the vehicle. These technologies must be moderately priced, absolutely reliable, set at the illegal BAC limit and unobtrusive to the sober driver; and
- Mobilization of grassroots support led by MADD and its over 400 affiliates, to make the elimination of drunk driving a reality.

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Attachment # 6

This is not just a MADD initiative -- we are supported by a number of prestigious organizations in this campaign, including:

- The Governor's Highway Safety Association
- National Highway Traffic Safety Administration
- The International Association of Chiefs of Police
- The Insurance Institute for Highway Safety
- The Alliance of Automobile Manufacturers

We hope we can add the House Judiciary Committee to the list of organizations supporting the Campaign and ask for your support to use existing technologies to make sure convicted drunk drivers cannot repeat their crimes.

Why do we need interlocks in Kansas?

Taking away a drunk drivers license just doesn't work. We know that 75 percent of convicted DUI offenders continue to drive on a suspended license. We also know that first time caught isn't the first time an offender has driven drunk. The most conservative study makes clear that the average offender has driven drunk 87 times before being caught. Law enforcement is doing their job, but there just aren't enough police to catch all the offenders.

What all of this tells us is offenders will continue to drive drunk and endanger the public unless we stop them. If we do what we've always done, we're going to get what we've always gotten -- unnecessary death and injury on our roads.

The good news is that ignition interlock devices prevent a vehicle from being started by a drunk driver. The offender must blow into a device roughly the size of a cell phone. If the offender registers .02 or less, the driver can safely operate the vehicle. The device is set to .02 because it is often a condition of probation that one abstain from alcohol during this period.

Unfortunately, even though this technology exists and is available for widespread deployment, it is not often used. Only about one in every eight convicted drunk drivers is required to have this device installed in their car. Requiring all convicted offenders is the first step toward eliminating drunk driving.

Interlocks Work

Interlocks have been proven to reduce repeat drunk driving offenses by an average of 64 percent. When New Mexico passed their first offender interlock law, it saw interlock implementation increase to 50 percent. Alcohol-related fatalities decreased by about 30 percent over the course of interlock implementation and 12 percent alone the first year the device was required for all convicted offenders. These numbers are significant and their potential to increase is even more significant. If Kansas passed a similar law, it could expect to see similar results.

Some people think that requiring interlocks for first time offenders is an overly harsh sanction, but this is simply not the case. Interlocks allow the offenders to go to work and provide for their family. They simply cannot drive drunk and hurt my family or yours. In addition, this bill requires DUI offenders to pay for the interlocks, not the taxpayer. MADD believes the taxpayer already subsidizes drunk driving enough. In 2000, NHTSA reported that drunk driving cost our nation \$114 billion per year. What's more, most drivers would be disturbed to know that 18 percent of their car insurance cost is a direct result of paying for those who choose to drink and drive.

As it relates to the minimal fiscal estimate associated with administrating the new lifesaving interlock law, according to the Kansas DOT, alcohol related traffic crashes cost \$597 million in 2007 alone. If HB 2315 is enacted, not only will lives be saved, but with less drunk driving crashes occurring as a result of an interlock law, the state and taxpayers will save money.

Conclusion

Alcohol ignition interlocks can significantly reduce drunk driving fatalities. New Mexico alone has seen a 30 percent reduction in deaths and injuries. MADD believes that anyone who has violated the public trust and driven drunk 29 years after we know what it does has earned the right to an interlock. MADD strongly encourages the committee to pass this legislation and save lives on Kansas' roads. The passage of mandatory interlock legislation for all convicted drunk drivers, including first time offenders, is an integral part of eradicating one of the primary public health threats facing this nation. MADD strongly supports HB 2315 and respectfully requests that the Judiciary Committee to vote in favor of this legislation.

Thank you.



Testimony on Kansas Legislature on HB 2315
 By Richard Roth, PhD March 2, 2009

I am a DWI Research Consultant and have been doing research on the effectiveness and cost-effectiveness of interlock laws for over ten years. As a citizen lobbyist, I drafted and successfully lobbied for the interlock laws in New Mexico. My vitae is attached. Links to many of my publications and conference presentations are available at our website, www.ImpactDWI.org.

I have been asked to provide research and statistics in support of HB 2315 and I am being compensated for my time in preparing this testimony by the Kansas Ignition Interlock Association. No one tells me what to say.

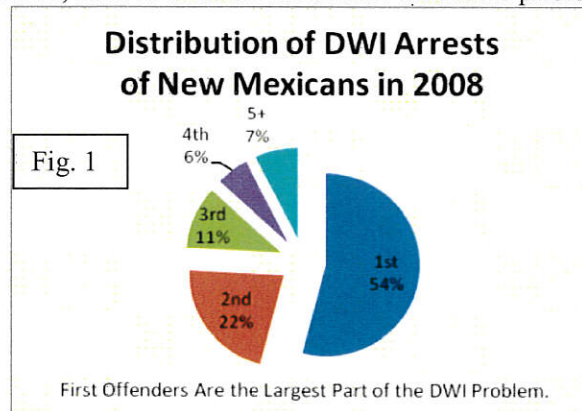
.....
 HB 2315

This bill provides a way for DWI offenders to learn and to demonstrate that they can drive sober before they are eligible for an unrestricted license. The required interlock driving periods increase with the number of priors and the severity of the offense. HB 2315 could be titled: "Graduated Re-Licensing For Drunk Drivers". HB 2315 substitutes the behavior-modifying opportunity to drive legally when sober for part of the strictly punitive license suspension time.

Why Should First Offenders Be Included?

I. First offenders are the majority of the drunk driving problem.

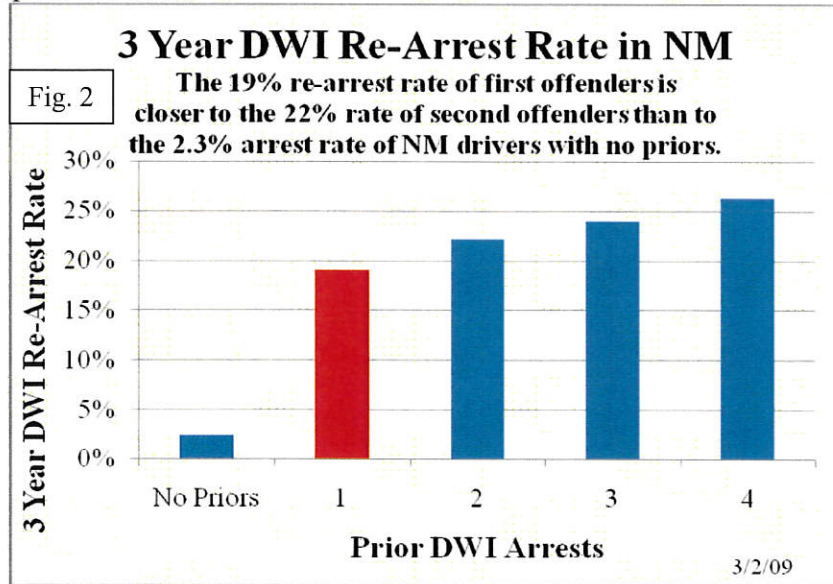
In New Mexico in 2008, 54% of those arrested for DWI had no priors in the last 25 years.



According to the National Highway Traffic Safety Administration (NHTSA) over 90% of Alcohol-Impaired Driver Fatalities in the US involve drivers who have no priors in the previous 3 years¹. Most of those arrested for DWI have no prior arrests and are labeled first offenders². But first arrest is usually not first time drunk driving³.

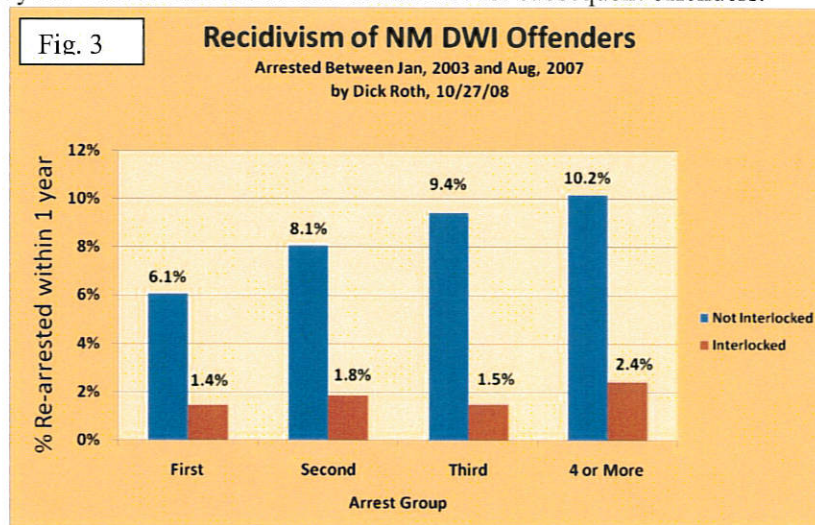
II. First Offenders Are Just As Dangerous To the Public As Subsequent Offenders.

The figure below shows that the re-arrest rate of first offenders is almost as high as that of subsequent offenders.



III. Interlocks Are Effective At Reducing Recidivism

Interlocked offenders have much less recidivism than non-interlocked offenders, 1.4% vs 6.1% per year. Recidivism reductions are similar for subsequent offenders.



¹ <http://www-nrd.nhtsa.dot.gov/Pubs/810616.PDF> pg 5

² In New Mexico, 58% of those arrested for DWI have no priors in the previous 25 years. See Figure 1

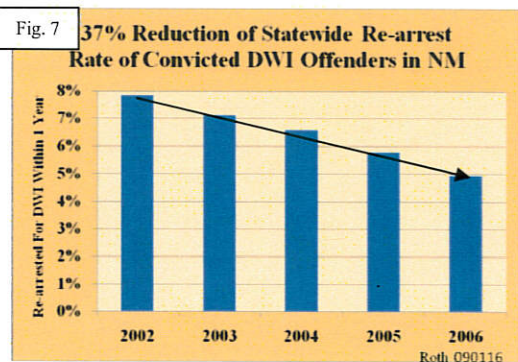
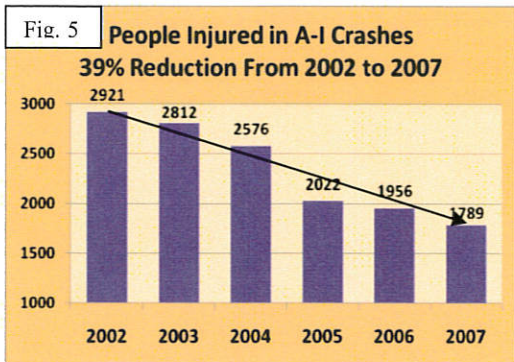
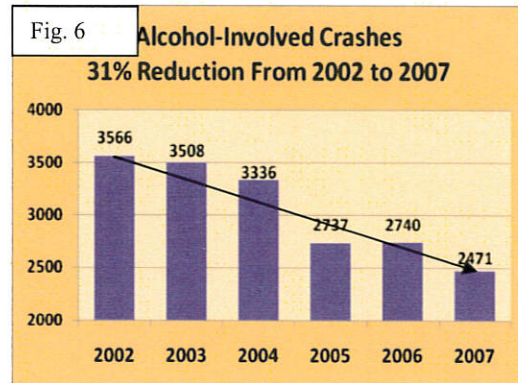
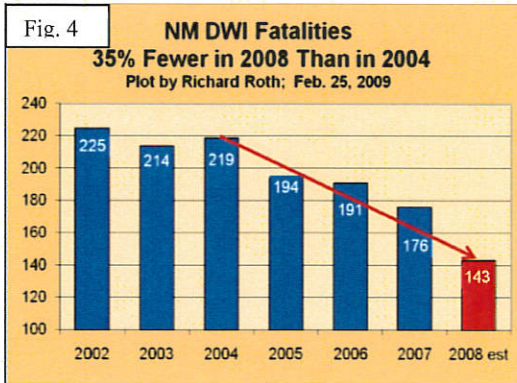
³ Surveys of convicted drunk drivers at DWI Victim Impact Panels in New Mexico indicate that they have driven after drinking a median of 100 times and an average of 500 times before their DWI arrest.

7-2

An Example of What Can Be Achieved With Strong Interlock Laws

New Mexico made interlocks mandatory for high BAC first offenders as a condition of probation in 2003 and for all first offenders in 2005. Since 2003 all revoked offenders may drive legally with an interlock with no waiting period.

What NM has achieved statewide is shown in the four figures below. Figure 4 shows that alcohol-Involved fatalities are down 35%. Figure 5 shows that alcohol-involved injuries are down 39%. Figure 6 shows that alcohol-involved crashes are down 31%. Figure 7 shows that overall DWI recidivism is down 37%. Appendix 1 gives further information on what has been achieved in New Mexico and what is possible for Kansas. Appendix 2 contains frequently asked questions about Interlocks in New Mexico



Summary

Kansas HB 2315 is the best administrative interlock bill that I have seen⁴. I urge your legislature and your governor to make it the law in Kansas and to provide support for research⁵ on its effectiveness.

⁴ I think that more interlocks would be installed if it were a condition of probation for convicted offenders. Furthermore, I recommend shortening the period of hard suspension because during that period offenders who have to drive learn that they can do so with low probability of apprehension.

⁵ I urge your MVD and DOT to keep track of interlock installations and removals, re-arrests during and after interlock periods, and changes in alcohol-impaired driver fatalities, injuries, and crashes.

Richard Roth, PhD
 2300 West Alameda, Unit D4
 Santa Fe, NM 87507
 505-471-4764 RichardRoth2300@msn.com

Education

INSTITUTION AND LOCATION	DEGREE	YEAR(s)	FIELD OF STUDY
Physics, Rockhurst College	B.S.	1955-59	Physics
Princeton University	M.A.	1959-61	Physics
Princeton University	Ph.D.	1961-64	Physics

Professional Positions

1961- 1964 Teaching Assistant, Princeton University
 1964 - 1965 Instructor and Research Associate, Princeton University
 1965 - 1966 Research Associate, NSF Commission on College Physics, University of Michigan
 1966 - 1969 Instructor and Research Associate, University of Michigan
 1969 -1994 Asst. and Assoc. Professor of Physics, Eastern Michigan University
 2002- President and Executive Director, Impact DWI
 2004-2007 Research Consultant, Pacific Institute for Research and Evaluation
 2006- Research Consultant, New Mexico Traffic Safety Bureau

Career Brief

Dr. Roth holds a Ph.D. in physics from Princeton University and served as professor of Physics at Eastern Michigan University until 1994. He is Executive Director of Impact DWI, a non-profit organization that conducts monthly DWI Victim Impact Panels and supports many anti-DWI activities. (see www.impactdwi.org)

He wrote the first draft and successfully lobbied for the passage of most of New Mexico's ignition interlock legislation and serves on the Governor's Ignition Interlock Task Force. He has working relationships with the New Mexico Traffic Safety Bureau, the Motor Vehicle Department, the Administrative Office of the Courts, the Department of Finance and Administration, and many judges and legislators.

He is a consultant to the Pacific Institute for Research and Evaluation on a contract from NHTSA and a grant from SAPRP to evaluate the impact of the interlock laws in New Mexico. Under a contract from the NM Traffic Safety Bureau, he evaluated a pilot program in Santa Fe County in which 71% of the 1145 convicted DWI offenders installed ignition interlocks.

Teaching and Research Experience

- Worked with James Cronin and Val Fitch on Nobel Prize (1980) winning experiments in Elementary Particle Physics.
- Designed and conducted several physics experiments involving millions of elementary particle events in spark chambers.
- Collected the data and published an Index of Short Films for Teaching Physics.
- Designed, implemented and evaluated a Teacher Evaluation Program for Eastern Michigan University. Set up a database for the evaluation of over 2000 class sections with 80,000 evaluation forms completed by 20,000 students with the option of different items on the forms for each instructor, class, or department.
- Taught courses in Physics at the undergraduate and graduate level. Recognized twice as Teacher of the Year at Eastern Michigan University.
- Taught courses in Computer Science, using the Fortran and Pascal languages.

Roth, R. First Offenders in New Mexico 7th International Ignition Interlock Symposium. 2006.

<http://www.pire.org/interlocksymposium.htm>

Roth, R. Odyssey of a Citizen Lobbyist. 7th International Ignition Interlock Symposium. 2006.

<http://www.pire.org/interlocksymposium.htm>

Roth, R. New Mexico Interlock Laws allow Revoked Offenders to Drive. Alcohol Ignition Interlock Devices. 2005. <http://www.icadts.org/reports/AlcoholInterlockReport2.pdf> pp 55-61.

Voas, R.B., Roth, R., Marques, P.R., 2005. The Hard Suspension Barrier: Does New Mexico's Interlock Licensing Law Solve the Problem?

<http://www.icadts.org/reports/AlcoholInterlockReport2.pdf> pp 62-73.

Voas, R.B., Marques, P.R., and Roth, R., 2005. Evidence that Interlocks Are Effective with First Offenders. http://www.tirf.ca/whatNew/newsItemPDFs/Bob_Voas.pdf

Roth, R., Marques, P., Voas, R., 2005 Motivating DWI Offenders To Install Interlocks: What Works? http://www.tirf.ca/whatNew/newsItemPDFs/Richard_Roth.pdf

Voas, R.B., Roth, R., Marques, P., 2005 Interlock Effectiveness with Unmotivated Offenders: Requirement for License Reinstatement?

http://www.tirf.ca/whatNew/newsItemPDFs/Bob_Voas_1.pdf

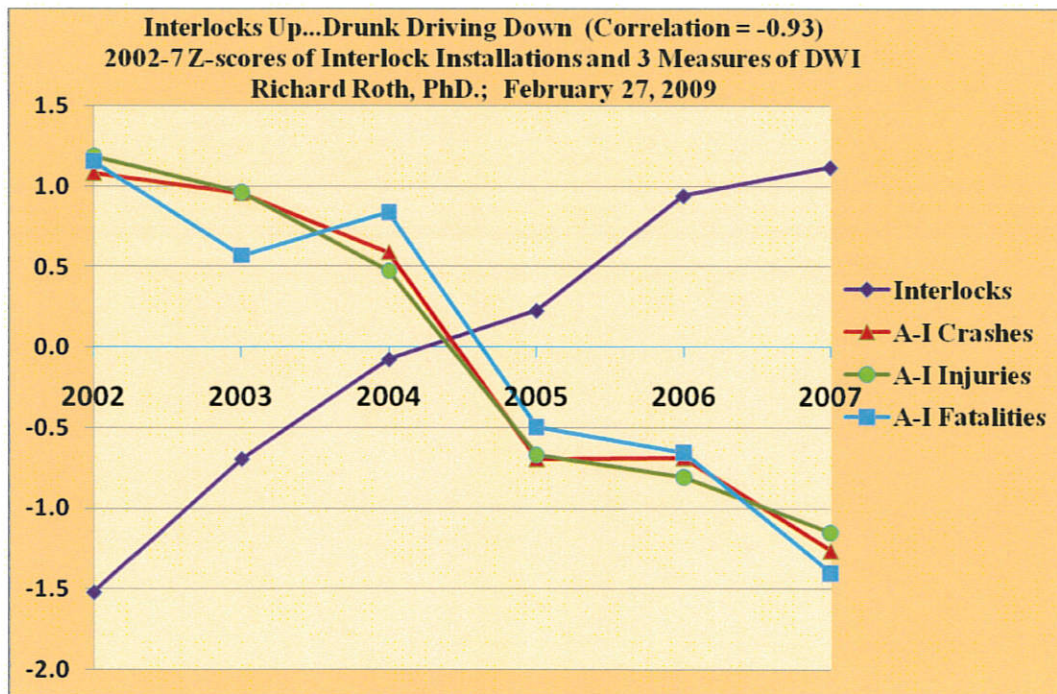
Roth, R., Marques, P., Voas, R. 2005. Ignition Interlocks as Alternatives to Hard Revocation for DWI Offenders.

http://www.tirf.ca/whatNew/newsItemPDFs/Richard_Roth_1.pdf

Appendix 1
More Interlocks, Less Drunk Driving in NM¹
Dr. Richard Roth², March 2, 2008

This appendix illustrates what has been achieved since January 1, 2003 when the first mandatory interlock law went into effect in New Mexico. The next page contains eight figures that that are described below.

- Figure 1 shows that **Interlocks installations have increased** from 191 in 2002 to 6592 in 2007.
- Figure 2 shows that **interlocked offenders have a 75% lower re-arrest rate** than non-interlocked offenders.
- Figure 3 shows that **DWI arrests stayed relatively constant** in spite of increased enforcement³.
- Figure 4 shows that **Alcohol-Involved Crashes are down 31%** from 3566 in 2002 to 2471 in 2007.
- Figure 5 shows that **Alcohol-Involved Injury Crashes are down 39%** from 1774 in 2002 to 1080 in 2007.
- Figure 6 shows that **32% Fewer people were injured in DWI crashes**, 2921 in 2002 and 1789 in 2007.
- Figure 7 shows that Alcohol-Involved **Fatal Crashes** are down 22% from 198 in 2002 to 155 in 2007.
- Figure 8 shows that **Alcohol-Involved Fatalities are down 35%** from 219 in 2004 to 143 in 2008.
- The Figure below summarizes what has been achieved by showing interlock installations and three measures of drunk driving on the same Z-score scale.



¹ Other contributors to the decline in drunk driving include: Increased Publicity, Increased Enforcement, Drunkbusters Hotline, Prevention Programs, and Forfeiture Ordinances.

² For additional information please contact me at RichardRoth2300@msn.com or 471-4764

³ Data for figures 3-8 is from the yearly NM Traffic Safety Bureau Publications, "DWI New Mexico" and the original NM Crash files. Caution: Two competent researchers, Jim Davis and Steven Flint, think that some A-I crashes are missing from the official 2005 Crash Data, but the 2006 and 2007 crash data substantiates the decline in measures of DWI.

Interlock Installations Up, Drunk Driving Down

But only 35% of arrested offenders are installing interlocks.
Closing legislative loopholes would get interlocks into more offender vehicles.

Fig. 1

Interlock Installations in NM By Year
Data from Interlock Providers; Plot by Richard Roth 10/24/08

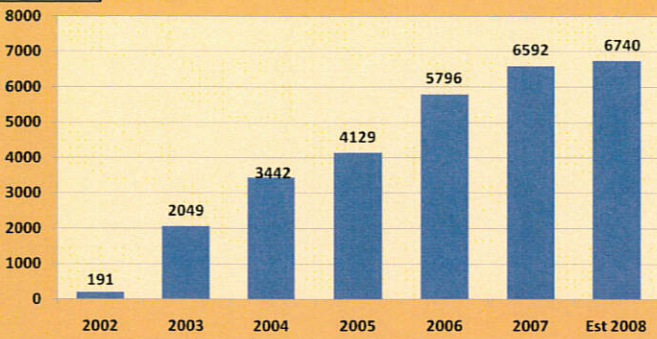


Fig. 2

Recidivism of NM DWI Offenders
Arrested Between Jan, 2003 and Aug, 2007
by Dick Roth, 10/27/08

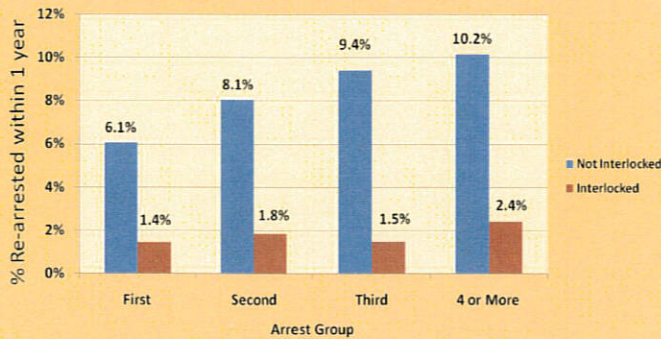


Fig. 3

DWI Arrests In New Mexico
Declining DWI Offset by Increasing Enforcement

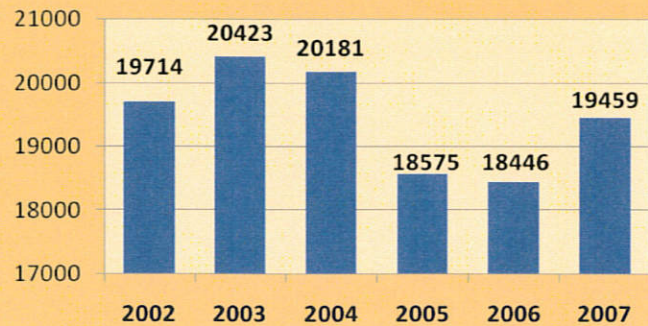


Fig. 4

Alcohol Involved Crashes
31% Reduction From 2002 to 2007

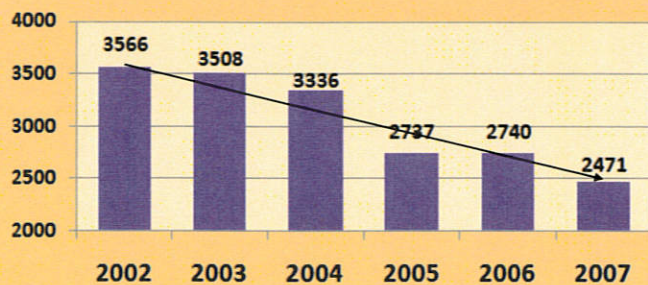


Fig. 5

Alcohol Involved Injury Crashes
39% Decrease between 2002 and 2007

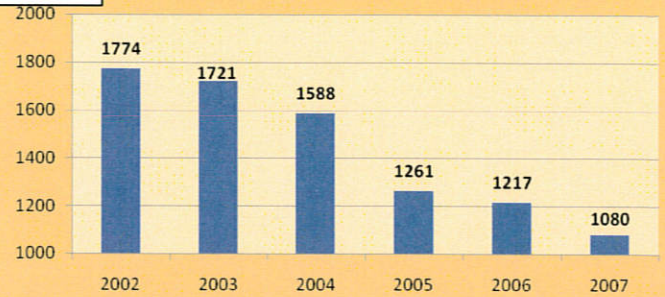


Fig. 6

People Injured in A-I Crashes
39% Reduction From 2002 to 2007

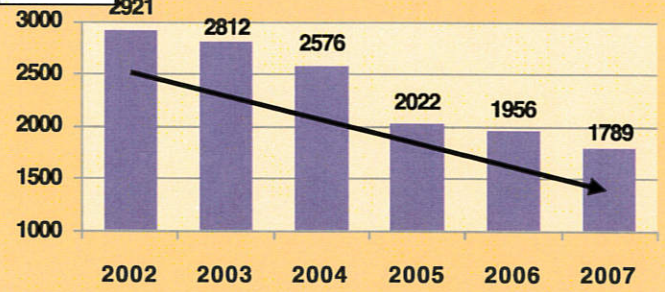


Fig. 7

Fatal Alcohol-Involved Crashes in New Mexico
22% Decrease between 2002 and 2007

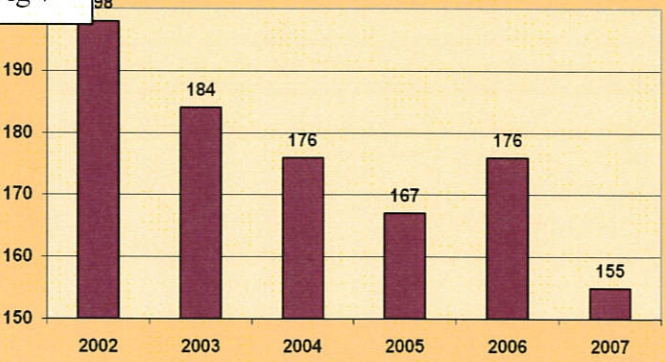
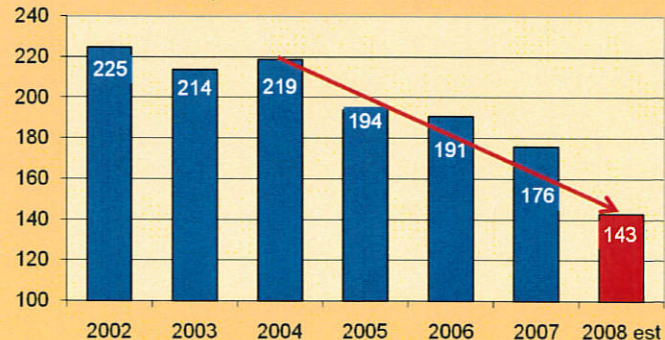


Fig. 8

NM DWI Fatalities
5% Fewer in 2008 Than in 2004
Plot by Richard Roth; Feb. 25, 2009



Data from TSB, MVD, DGR and Interlock Providers.

Plots by Dr. Richard Roth, For more information,
Call 505-471-4764 or RichardRoth2300@msn.com

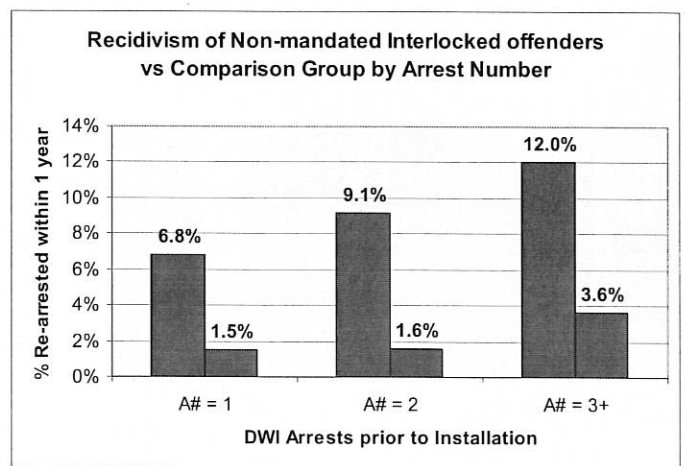
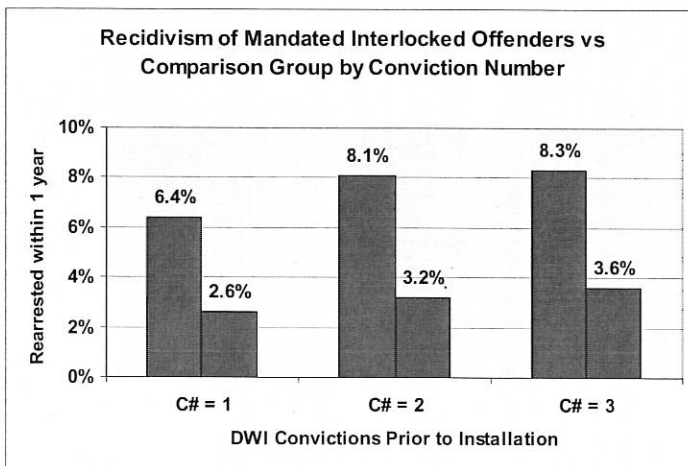
New Mexico Ignition Interlock FAQ's

Prepared by Dr. Richard Roth, RichardRoth2300@msn.com, February 25, 2009

1. What is an **ignition interlock**? A device that requires an alcohol-free breath sample from the driver before a vehicle can be started.
2. **Who is required to install** an ignition interlock in New Mexico? All convicted DWI offenders are required to install ignition interlocks in the vehicles that they drive. Over 30,000 have been installed so far in NM.
3. For **how long** are convicted DWI offenders required to have interlocks installed? The most recent NM law (6/17/05) requires 1 year of interlock for first offenders, 2 years for second offenders, 3 years for third offenders, and lifetime with 5 year review for 4 or more convictions
4. How much do they **cost**? About \$70 to install and \$70 per month for service, rental, and re-calibration.
5. How many different interlock devices are available in NM? The interlocks of seven different manufacturers are currently approved by the NM Traffic Safety Bureau: ACS, ADS, CST, Draeger, Guardian, Lifesafer, and Smart Start.
6. How many interlock-installation locations are there in NM? The seven manufacturers have a total of over 50 installation and service locations throughout the state. Some remote areas are serviced by mobile service providers.
7. How can I locate the nearest installation location? The list of approved installation-locations is on the web at <http://transportation.unm.edu/lic/ApprovedProviders.aspx?20> You can also get the list by calling 1-800-541-7952.
8. Can a person whose license is **revoked for DWI** drive an interlocked vehicle legally? Yes if he/she gets an ignition interlock license, has insurance, and is sober.
9. What is an **Ignition Interlock License**? An Ignition Interlock License is a license available from the NM Motor Vehicle Department that allows persons to legally drive interlocked vehicles while their status is still "revoked for DWI". Over 26,000 Interlock licenses have been issued so far.
10. What are the requirements for an Ignition Interlock License? The applicant must have an interlock installed in an insured vehicle and sign an affidavit that he/she is aware of the penalties for driving a vehicle without an interlock.
11. What is the penalty for driving with a license revoked for DWI? Seven days in jail, a fine of \$300-1000, and impoundment of the vehicle for 30 days.
12. Are interlocks **effective** at reducing drunk driving? Yes, interlocked offenders have one third the re-arrest rate of non-interlocked offenders in NM.
13. Are interlocks a **fair sanction** for convicted offenders? Yes, even convicted offenders think so. A survey of over 10,000 DWI offenders indicated that over 85% of offenders think that ignition interlocks are a fair DWI sanction for convicted offenders. (Surveys of offenders prior to Victim Impact Panels)
14. Can a sober person blow into the interlock to allow an impaired person to drive? All interlocks are required to have **anti-circumvention features** to prevent this. Training is required to operate the interlock. The required air sample is greater than what most children would be able to provide. And random rolling re-tests are required.

15. What is a Random **Rolling Re-Test**? After an initial breath test that allows the vehicle to be started, additional tests are required at random intervals. The first rolling retest is required between 3 to 10 minutes after the initial test. After that, additional random re-tests are required every 30-60 minutes.
16. Are the **Breath Alcohol Concentration** tests (**BAC**) recorded? Yes the interlock device records the time, date, and BAC of all tests.
17. Does the court get notified of violations recorded on the interlock? Yes. Interlocks must be serviced and recalibrated every 30-60 days. Interlock Service Providers are required to notify the judge or his designee of all recorded violations.
18. Do interlocks detect **tampering or attempts to bypass** them? Yes, and all such events are reported to the court.
19. What happens if a person does not return on time for required interlock service? The interlock will not allow the vehicle to be started.
20. Are interlocks only for **convicted** DWI offenders? No, all those whose licenses are revoked for a DWI arrest are eligible for interlocks and interlock licenses. Thus, persons whose licenses are revoked can drive legally in interlocked vehicles before adjudication and after any judicial mandate.
21. What if a convicted offender is **indigent**? There is an **Ignition Interlock Indigency Fund** available to pay the costs of installation, removal and 50% of service fees for offenders who are certified indigent by the sentencing court.
22. If a DWI offender qualifies for a public defender, does he/she automatically qualify for the ignition interlock indigency fund? No. The right to an attorney for a **person accused of a crime** is not the same as the right of a **convicted person** to have his interlock fees paid by public funds. The certification of indigency in both cases is up to the court. Standard criteria have not been established.
23. May persons voluntarily install an interlock to be sure that no one will drive the vehicle after drinking? Yes, some persons with a drinker in the family do so to avoid the potential of a drunk-driving arrest or crash.

RESEARCH FINDINGS: DWI Offenders without interlocks are about 3-4 times more likely to be re-arrested for DWI than interlocked offenders. In the figures below, the red bars are non-interlocked offenders and the green bars are interlocked offenders.





OFFICE OF THE SHERIFF MEMORANDUM



From the desk of:

Lt. Russell L. Zeeb

To: The Kansas Legislature
CC:
Date: 3-4-09
Re: HB2315

Typically when I travel to Kansas, it is to Manhattan or Lawrence to cheer on my home town football team, The Nebraska Cornhuskers. Today I choose to cheer the Kansas Legislature and the efforts to Remove Impaired and drunk driver's from the Roadways of the State of Kansas by asking your support and passage of HB2315. Last year in Nebraska we passed Nebraska LB 736 mandating Ignition interlocks on offender's vehicles. This law went into effect January 1, 2009.

It is my understanding that HB 2315, as currently written basically follows the M.A.D.D. model legislation. The Ignition Interlock will go a long ways toward making sure that the offender does not repeat the crime. We can eliminate drunk driving by using technology and holding the offenders accountable for their criminal actions, drunk driving.

In Nebraska, unfortunately I live tragedy to tragedy, way to many of those tragedies are the result of drunk drivers, and lots of times repeat DWI offenders. Alcohol ignition interlock devices prevent an offender's vehicle from starting if the driver demonstrates they have an illegal amount of alcohol in their system.

I am not familiar with the tragedies in Kansas, but I will guarantee that Kansas has people that in Nebraska we know as the Bellers, the Ramaekers, and the McCowns. These families suffer and grieve everyday since the death of all of their parents, all at the hands of repeat drunk drivers. In the Beller/Ramaekers case the suspect was a nine time DWI offender. In the McCown case, the suspect is on his fourth offense when he killed their parents. Six lovely people, parents, grandparents, brothers, sisters, aunts and uncles that are all deceased today because of the senseless act of a repeat drunk driver.

To make things worse, the suspect in the McCown case has skipped bond and has never been tried or convicted and is still out on the roadways as a potential danger to other innocent people, God forbid, maybe your family or mine.

There is a second chapter to this book on the Ignition Interlock, this legislation provides an avenue for offenders who have been convicted of drunk driving to get to work and get to treatment with out breaking the law and driving under suspension. This makes good sense, let's get the offenders the much needed treatment needed and continue with the fight to eliminate drunk driving.

I apologize for not being able to attend today's hearing, but please continue your efforts to Eliminate Drunk Drivers from the roadways of Kansas before we read the next headlines of the newspaper that read something like this: REPEAT DRUNK DRIVER KILLS INNOCENT PARTY IN OVERNIGHT CRASH.

Please think of all the victims of DWI offenders and let's join in support for those families and attempt to let them know that we all care for their loss.

Please contact me if any questions, 402-681-0929 or RZeeb@Sarpy.com

Russell L. Zeeb

Day Patrol Commander

Joseph & Hollander PA

Lawyers and Counselors

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Topeka, KS 66612
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March 4, 2009

Good afternoon Chairmen and members of the committee. My name is Sonya L. Strickland and I am presenting this written testimony to you in support of HB2315. As a DUI attorney I am working directly with the people that are impacted, by their own mistakes, by HB2315.

First of all, let me say that I in no way condone drinking and driving, nor do most of my clients. Most of the people that I represent are terribly embarrassed about having made the decision to get behind the wheel of a car after they had been drinking. They are ashamed of themselves, and are very remorseful. In fact, a great number of my clients tell me, at our initial meeting, "I was wrong, and I know I deserve to be punished." And although I am a defense attorney, I don't always disagree with that statement. I understand that there are laws, that we are expected to follow them, and that when we don't, there are consequences. However, I firmly believe that the current suspension periods serve as an example of the punishment not fitting the crime.

A "typical" client in my office is in their mid-forties. They are white, middle-class, employed, and generally have children still living at home. Many of them don't drink regularly. For many of my clients, they drank on what they considered to be a "special occasion." A girls night out, a company Christmas party, a wedding reception. Most of them are cooperative with law enforcement when they are arrested, and submit to breath testing willingly. For many of them, their first phone call after being arrested was NOT to a lawyer, but to an alcohol counseling center, or mental health professional. These are my clients - but they are your friends, neighbors, and co-workers. They are cognizant of the fact that they will be punished for their crime, yet still have hope that they can recover from their DUI both emotionally and financially. The current suspension periods make it difficult to do that.

In Kansas, a person who is arrested for their very first DUI, and who submits a breath test in excess of .149 BAC, is subject to having their license suspended for one year. When I tell my clients, most of whom do have a breath test result in excess of .149, they are astounded. Invariably, their next question is, "can I get a restricted license, because I have to take my kids to daycare." Or they say, "how am I supposed to get to work - I live in Silver Lake, I can't take a bus or a cab." Currently, I have to tell them that, no, you cannot get a restricted license. As for how you are going to get to work, I don't know. Then they begin to ask me things like, "well, how am I supposed to pay for the fines, and for treatment, if I can't drive to work?" Again, I don't know. Some of my

House Judiciary

Date 3-4-09

Attachment # 9

clients will ask me, "can I offer to do more interlock?" Answer, no, you cannot "haggle" with DMV in order to negotiate around the suspension period. Very rarely will someone say, "well, what happens if I drive anyway?" The great majority of my clients want to do the right thing, and this bill will allow that to happen. They will be punished for their actions, but they will also still be able to work, pay their fines, pay for treatment, and care for their kids.

This bill will also serve the interests of judicial economy. Some of my clients go to trial - not because they have a trial-worthy case - but because they feel they have no choice but to put up a fight, since pleading the case out and being convicted would mean an automatic license suspension. These are cases that, if they could somehow keep their license, my clients would plead very early in the case. Quite simply, most of my clients can come to grips with the fact that they are going to be convicted of a misdemeanor, but they struggle tremendously with how to manage their lives, some of them in rural areas, without the ability to drive. Imagine how you would have to change your own daily routines if you couldn't drive. Now, imagine that you have to do that for a full calendar year.

Again I would like to thank the committee for taking the time to hear the benefits of HB2315. I understand this bill will somewhat change the thinking in Kansas on how to deal with DUI offenders, however in the long run the Offender, the Judicial System, the Correctional system and the State will be better off. I hope that after my testimony along with the others you can vote HB2315 out of committee favorable.

Sincerely,

Sonya Strickland

THE
CENTURY COUNCIL

DISTILLERS FIGHTING DRUNK DRIVING
& UNDERAGE DRINKING

Ralph S. Blackman
President & CEO

Board of Directors

Bacardi U.S.A., Inc.
Beam Global Wine and Spirits, Inc.
Brown-Forman
Constellation Brands, Inc.
DIAGEO
Hood River Distillers, Inc.
Sidney Frank Importing Co., Inc.

February 23, 2009
The Honorable Lance Kinzer
House Judiciary Committee
Statehouse Room 121-W
300 Southwest 10th Avenue
Topeka, Kansas 66612

Dear Chairman Kinzer:

The Century Council was founded in 1991 and is an independent, national not-for-profit organization headquartered in Arlington, Virginia. Funded by America's leading distillers (Bacardi U.S.A., Inc.; Beam Global Wine and Spirits, Inc.; Brown-Forman; Constellation Brands, Inc.; DIAGEO; Hood River Distillers, Inc.; and Sidney Frank Importing Co., Inc.), the Council is dedicated to developing and implementing programs that fight drunk driving and underage drinking. To date, we have hosted nearly 2,200 community events to launch our programs across the nation bringing them to millions of parents, youth, educators, law enforcement officials and traffic safety professionals.

Advisory Board

Douglas A. Fox
*Chairman, National Alcohol Beverage
Control Association (NABCA)*

Patrick B. Harr, M. D.
*Former Chairman of the Board of
Directors, American Academy of Family
Physicians*

The Honorable Heidi Heitkamp
Former North Dakota Attorney General

Lisa Graham Keegan, CEO
*Western Academy of Virtual Education
Former Superintendent of Public
Instruction, State of Arizona*

Robert L. King
*President & CEO, Arizona Community
Foundation
Former Chancellor, The State University
of New York*

Colonel Lonnie J. Westphal
*Chief (Ret.) Colorado State Patrol
Former Vice President of IACP*

Anthony E. Wolf, PhD.
*Clinical Psychologist and Best Selling
Author*

Through the years, The Century Council has worked extensively throughout the nation on anti-drunk driving efforts. Responding to a growing body of research that points to high BAC and repeat offenders as the source of a large and disproportionate share of highway crashes, in 1997 the Council created The National Hardcore Drunk Driver Project. The Project serves as a single, comprehensive resource to assist state legislators as well as highway safety officials, law enforcement officers, judges, prosecutors, community activists and treatment professionals in developing programs to reduce hardcore drunk driving.

At the national level, The Century Council supports MADD's *Campaign to Eliminate Drunk Driving*. The Council, along with the National Transportation Safety Board, AAA, Nationwide Insurance and the National District Attorney's Association, comprise the Coalition to Fight Hardcore Drunk Driving that supports state legislative proposals to enact comprehensive and effective solutions to the hardcore drunk driving problem.

Hardcore drunk drivers are those who drive with a high blood alcohol concentration (BAC) of .15 or above, who do so repeatedly, as demonstrated by having more than one drunk driving arrest, and who are highly resistant to changing their behavior despite previous sanctions, treatment or education efforts.

Hardcore drunk drivers account for the majority of alcohol-involved traffic fatalities. Crash data shows that drivers with a BAC of .15 or above are 380 times more likely to be involved in a fatal crash than the average driver. According to the National Highway Traffic Safety Admin

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with a BAC of .15 or above accounted for approximately 55 percent of the alcohol-involved fatal crashes in Kansas.

While The Century Council is neutral regarding the mandatory installation of ignition interlocks for first-time, non-hardcore offenders, we support judicial discretion on a case by case basis. The Century Council does strongly support the sanction of ignition interlock devices for hardcore offenders and for any offender who refuses to submit to a BAC test. The Council also favors tiered systems that mandate more severe penalties, treatment, and aftercare for hardcore drunk drivers.

Several factors influence our stance regarding support of mandatory interlocks for hardcore drunk drivers including:

- Our extensive work with the judiciary has revealed that many offenders who are required to install an interlock simply do not do so. In fact, only about 20% of the offenders ordered to install interlocks in the United States have actually complied with this order. This scenario occurs due to inadequate compliance monitoring and poorly administered interlock programs.
- All too often interlocks are not integrated into a comprehensive set of sanctions aimed at rehabilitating a DUI offender. Research shows that interlocks are an effective deterrent while the device is on an offender's car, but unless the interlock device is used in tandem with other solutions such as assessment and treatment, it is unlikely to result in long-term behavior change.

Based on this information, The Century Council believes that improving interlock usage rates among hardcore drunk drivers is a top priority. For that reason, The Century Council remains neutral on H.B. 2315 which requires interlocks for all DUI offenders.

The Century Council urges Kansas legislators to focus on measures designed to ensure increased installation rates among hardcore drunk drivers – the most dangerous on our roadways – and tie the interlock sanction to other, often existing treatment solutions that will lead to behavior change and long term reductions in recidivism.

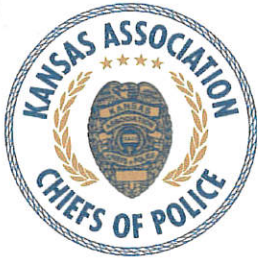
Based on our research, we believe that strong laws enabling swift identification, certain punishment and effective treatment are critical fundamental elements necessary to reduce the incidence of hardcore drunk driving and believe that these elements must be coordinated into a statewide system to be effective.

Should you have any questions, please feel free to contact Katie Bussewitz in the Council's Government Relations Department at BussewitzK@CenturyCouncil.org or 202-637-0077.

Sincerely,



Ralph Blackman
President & CEO



Kansas Association of Chiefs of Police

PO Box 780603, Wichita, KS 67278 (316)733-7301

Kansas Peace Officers Association

PO Box 2592, Wichita, KS 67201 (316)722-8433



March 4, 2009

Testimony to the House Judiciary Committee In Opposition to HB 2315 DUI Ignition Interlock Amendments

Mr. Chairman and Committee Members,

The Kansas Association of Chiefs of Police and the Kansas Peace Officers Association oppose the amendments proposed in HB 2315 which will reduce suspension penalties for test refusal. It is our belief that implementation of those provisions is likely to result in increased test refusals. Increased test refusals will result in fewer DUI convictions. Fewer DUI convictions result in lost opportunities to identify the problem drinkers and to get them into treatment and supervision programs. Increased test refusals also increase the time officers spend in court testifying since pleas in DUI cases without breath or blood tests are almost non-existent.

We have attached a chart to this testimony showing the different periods of suspension proposed in the bill in the various scenarios of age, refusals, test failures, convictions, and BAC levels. You can see on this chart that the penalties for test refusals under the proposed amendments lacks teeth and it is likely many offenders will choose to accept the refusal penalty over the DUI penalties. Note the chart only covers the licensing sanctions and ignition interlock requirements. The penalties for the DUIs are not included. When those are included, the motivation for refusing the test is even more pronounced.

We do not oppose the use of ignition interlock devices or expanding their use. But the use of the ignition interlocks should supplement the license suspension, not replace it. They may play a significant role in addressing DUI recidivism. However, the penalties for test refusals have to be significant or the DUI offender will elect to accept those penalties over the DUI conviction. The proposal significantly reduces the suspension time for test refusals, as well as reduction in 5th or subsequent test failures and DUI convictions. We are strongly opposed to those reductions.

We are not opposed to expanded use of the ignition interlock devices, particularly in the shaded areas of the attached chart. But we urge you to not reduce the suspension times for the refusals, especially for the first, second, and third offenses.

As you probably know, the Senate is currently working a bill, which will probably soon be coming to the House, establishing a group of professionals to look at the entire spectrum of the DUI penalties and treatment provisions of the law. We believe piecemeal changes that address only one part of the DUI issue is likely to produce unintended consequences in other areas of the DUI laws and associated penalties and sanctions. It is our belief that the recommendations of this bill should be referred to that group for study and that no action should be taken on this bill at this time.

A handwritten signature in black ink that reads "Ed Klumpp".

Ed Klumpp
Legislative Committee Chair-KACP
Legislative Committee Chair-KPOA
eklumpp@cox.net
(785) 640-1102

House Judiciary

Date 3-4-09

Attachment # 11

HB 2315 Suspension and Interlock Provisions

11-2

For Drivers Age 21 and older

	Test Refusal [Sec. 1 (a) Page 1 lines 15-37]				Test Failure With BAC Less Than .15 or DUI Conviction [Sec. 1 (b)(1) Page 2, line 38-Page 2, line 19]				Test Failure With BAC .15+ or DUI Conviction [Sec. 1 (b)(2) Page 2, lines 20-43]			
	Suspension		Interlock		Suspension		Interlock		Suspension		Interlock	
	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed
1 st Offense	1 year	30 days	1 year	2 years	30 days and restricted for 330 days	45 days	In Lieu of Restrictions	1 year	1 year	45 days	1 year	2 years
2 nd Offense	2 years	1 year	None	3 years	1 year	1 year	1 year	2 years	1 year	1 year	2 years	3 years
3 rd Offense	3 years	1 year	None	4 years	1 year	1 year	1 year	3 years	1 year	1 year	3 years	4 years
4 th Offense	10 years	1 year	None	5 years	1 year	1 year	1 year	4 years	1 year	1 year	4 years	5 years
5 th + Offense	Permanent Revocation	1 year	N/A	Permanent	Permanent Revocation	1 year	N/A	Permanent	Permanent Revocation	1 year	N/A	Permanent

For Drivers Under the Age of 21

	Test Refusal [Sec. 1 (a) Page 1 lines 15-37]				Test Failure With BAC Less Than .15 or DUI Conviction [Sec. 1 (c) Page 3, line 6-16]				Test Failure With BAC .15+ or DUI Conviction [Sec. 1 (c) Page 3, lines 6-16]			
	Suspension		Interlock		Suspension		Interlock		Suspension		Interlock	
	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed
1 st Offense	1 year	30 days	1 year	2 years	1 year	1 year	None	None	1 year	1 year	1 year	1 year
2 nd Offense	2 years	1 year	None	3 years	1 year	1 year	1 year	2 years	1 year	1 year	2 years	3 years
3 rd Offense	3 years	1 year	None	4 years	1 year	1 year	1 year	3 years	1 year	1 year	3 years	4 years
4 th Offense	10 years	1 year	None	5 years	1 year	1 year	1 year	4 years	1 year	1 year	4 years	5 years
5 th + Offense	Permanent Revocation	1 year	N/A	Permanent	Permanent Revocation	1 year	N/A	Permanent	Permanent Revocation	1 year	N/A	Permanent

TO: Chairman Lance Kinzer
Members of the House Judiciary Committee

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

DATE: March 6, 2009

RE: House Bill 2315

As requested in the hearing for House Bill 2315 on Wednesday, March 4th, 2009, we have compiled additional information regarding ignition interlock requirements and compliance for calendar year 2008.

Notice to driver – Ignition Interlock Required	2,873
Notice to driver – Ignition Interlock Voluntary	<u>45</u>
	2,918
Ignition Interlock Verification Form – Installation	1,200*
Percentage of compliance	41%

*This number represents the best estimate of installations during calendar year 2008 understanding installation forms received from an interlock provider could be duplicated; a device could be installed, removed, and reinstalled for the same driver during any restriction period resulting in multiple installation forms for the same driver; and an ignition interlock device could be court ordered resulting in installation of a device without a requirement from Driver Control.

Please feel free to contact Jennifer Hermann, Operations Manager, Driver Control Bureau, for further information or clarification. Jennifer can be reached by phone at (785) 296-3829 or by email at jennifer_hermann@kdor.state.ks.us.

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Ann McNett, Sent-Elect
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Barber County Courthouse
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Change of Venue - Care & Treatment Cases

Testimony in Support of Senate Bill 66
By: Sandy McCurdy, Clerk of the District Court
Johnson County - 10th Judicial District

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today to speak on behalf of the Kansas Association of District Court Clerks and Administrators in regard to amending two statutes: KSA 59-2971, regarding care and treatment for mentally ill persons, and KSA 59-29b71, regarding care and treatment for persons with an alcohol or substance abuse problem.

Currently, when there is a change of venue ordered prior to trial, the clerk is required under KSA 59-2965 to send by facsimile "all pleadings and orders in the case." When the change of venue occurs after trial, the same statute requires the faxing of several specified documents and then sending the entire file to the receiving court by registered mail no later than 5:00 p.m. of the second full day the transferring court is open for business.

The current procedure of first faxing some documents then sending the entire file, including those documents which have previously been faxed, is time-consuming and results in sending two copies of some documents to the receiving court—once by fax and once by mail. The majority of these files do not contain many, if any, documents beyond those already specified to be faxed.

The proposed amendments would simplify and update the process the clerks of the district court presently use in change of venue cases by allowing documents to be sent by "facsimile or electronic copy." The use of this language will accommodate the courts and parties as we transition into imaged and electronically-filed documents.

In subsections 2(b) of both statutes, the amendments would also delete the requirement of certifying the pleadings and orders sent from the district court changing venue to the district court in the county of residence of the proposed patient if the county of residence is not the receiving county, since the documents are sent from one district court to another. The same process would apply in subsection 2(d) where the certification requirement would be removed when pleadings are sent to the county of residence by the court to which venue is transferred. The authenticity of documents sent by one court to another court can be verified by the fax identification line or the e-mail address of the sending court.

The requested amendments would save the clerks, who are often short-handed, the time now spent on duplicative steps. The Judicial Branch currently has a hiring freeze with no end in sight. These amendments would also save the counties the cost of postage. It is important to look for ideas such as this in difficult economic times.

Thank you for allowing me the opportunity to appear before you today on these issues. We will be glad to answer any questions you may have.

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House Judiciary
Date 3-4-09
Attachment # 13