

## MINUTES OF THE HOUSE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Gary Hayzlett at 1:30 p.m. on January 19, 2010, in Room 783 of the Docking State Office Building.

All members were present.

## Committee staff present:

Bruce Kinzie, Office of the Revisor of Statutes  
Scott Wells, Office of the Revisor of Statutes  
Jill Shelley, Kansas Legislative Research Department  
Betty Boaz, Committee Assistant

## Conferees appearing before the Committee:

Mike Scott, AT & T External Affairs & Spokesperson for Coalition in Support of HB 2439  
Pete Bodyk, Traffic Safety Program Manager - KDOT  
Jim Hanni, Executive Vice-President, KS Region, AAA Allied Group  
Don Moler, Executive Director, League of KS Municipalities  
Ed Klumpp, Legislative Liaison, KS Ass'n. of Chiefs of Police, KS Sheriffs Ass'n. and KS Peace Officers Ass'n.  
Sandy Braden, Gaches-Braden testifying on behalf of Alliance of Automobile Manufacturers Ass'n.  
Tony Rinehart, Ford Motor Company  
Dr. Jason Eberhart-Phillips, Director, Division of Health, KDHE  
Major Mark Bruce, Kansas Highway Patrol

## Others attending:

See attached list.

Chairman Hayzlett called the meeting to order and opened the meeting to bill introductions.

The Chairman recognized Carmen Aldritt, Director, Motor Vehicle Div. Director Aldritt asked the Committee to introduce three bills: One concerning personalized license plates, the second concerned the expiration and renewal of drivers' licenses and the third, concerned commercial driver's licenses, prohibiting diversion agreements. Representative Swanson made a motion to introduce these bills, seconded by Representative Menghini and the motion carried.

Chairman Hayzlett recognized Tom Day, Legislative Liaison, Kansas Corporation Commission. Mr. Day asked the Committee to introduce a bill relating to motor carriers; increasing the time period for verification of compliance with certain requirements. A motion was made by Representative Proehl to introduce this bill, seconded by Representative King and the motion carried.

Representative Menghini made a motion for the Committee to introduce a bill removing drivers training course requirement for restricted driver's license. The motion was seconded by Representative Long and the motion carried.

Chairman Hayzlett made a motion concerning school buses, seconded by Representative Swanson and the motion carried.

There being no more bill introductions the Chairman opened the hearing on **HB 2439.**

**HB 2439 - Prohibiting sending, reading or writing text messages**

Chairman Hayzlett recognized Mike Scott, representing AT & T. (Attachment #1). According to Mr. Scott's testimony, text messaging has experienced a tenfold increase in the past three years which means some may be doing it while driving. He said a driver who sends text messages while driving is 23 times more likely to be in a crash than one who does not, according to a study by Virginia Tech Transportation Institute. Mr. Scott explained the term texting is an all-encompassing term and that the proposed legislation would also prohibit the reading or sending of e-mail or instant messages while driving. He said the key provision of the

## CONTINUATION SHEET

Minutes of the House Transportation Committee at 1:30 p.m. on January 19, 2010, in Room 783 of the Docking State Office Building.

bill is that no person shall operate a motor vehicle on a public street or highway while using an electronic wireless communications device to type, write, send, or read a written communication. The coalition defined write, send, or read a written communication as using an electronic wireless communications device to manually type, send, or read a written communication.

The Chairman recognized Pete Bodyk, Manager of KDOT's Traffic Safety Section. (Attachment #2) Mr. Bodyk said a study conducted by Virginia Tech and the National Highway Traffic Safety Administration found that nearly 80 percent of traffic crashes are caused by some form of driver inattention within three seconds before the crash. He said a recent survey showed 46 percent of teens admitted to texting while driving. He concluded by saying a law that prohibits texting while driving will contribute to making all travelers in Kansas safer.

The next proponent for **HB 2439** was James R. Hanni, Executive Vice President, AAA Allied Group. (Attachment #3) According to Mr. Hanni, two recent surveys of the motoring public by the AAA Foundation for Traffic Safety show that 21 percent of motorists of all ages admit to text messaging while driving with young drivers being more likely to text message. He said a 2006 study involving 100 drivers taking their eyes off the road for more than two seconds doubles the risk of a crash. Another study showed commercial truck drivers who are texting while driving are 23 times more likely to crash. Mr. Hanni said a study in California showed a drop of 70 percent of drivers text messaging from pre-ban to post-ban indicating the effectiveness of California's primary enforcement law.

Don Moler, Executive Director of the League of Kansas Municipalities was the next proponent. (Attachment #4) Mr. Moler said the League was there to support this legislation as a matter of public safety. He said passing **HB 2439** would allow for statewide, enforcement and at the same time allow for dual jurisdiction with cities across the state.

Chairman Hayzlett recognized Ed Klumpp, Legislative Liaison for the Kansas Association of Chiefs of Police, Kansas Sheriffs Association and the Kansas Peace Officers Association. (Attachment #5) According to Mr. Klumpp, the Associations support passing a law prohibiting texting while driving. He said this bill developed through a cooperative coalition involving local and state law enforcement, traffic safety promoters, KDOT, telecoms, the automotive industry and others is specific to texting and does not attempt to limit telephonic cell phone use. He further said his associations believe this bill best addresses the concerns of the areas of interest involved in its development and it is their belief this bill balances the interests of public safety, legitimate exemptions, and appropriate violation sanction to encourage compliance while maintaining the violation as a traffic infraction. Mr. Klumpp said law enforcement training and experience is able to overcome, to a large degree, the enforcement challenges associated. He said while the difficulty and complexity in the enforcement of various laws will impact the ease of enforcement, this law is enforceable.

Sandy Braden, representing the Alliance of Automobile Manufacturers was the next to speak in support of **HB 2439**. (Attachment #6) According to Ms. Braden, the Alliance has voluntarily developed and implemented design guidelines when designing their vehicles to provide for integrated vehicle information systems that allow for the use of communication technologies in a safe, responsible manner. She said many of these current and new safety technologies and enhancements use wireless communications as a backbone; providing automatic crash notification, road hazard notification and real-time road navigation. As such the Alliance supports an approach that addresses the issues while preserving these technologies designed to enhance safety. She concluded by saying the Alliance requests the Committee's support in providing a ban on texting while driving using a hand-held device, and to include amendments to ensure that the use of advanced technologies in the vehicle is not prohibited.

The Chair recognized Tony Reinhart, representing Ford Motor Company. (Attachment #7) Mr. Reinhart said Ford thinks driver distraction is a critically important issue. But the reality is it is going to be difficult to stop drivers from having conversations, reading maps, getting directions and listening to music while they drive. He said Ford believes hands-free, voice-activated technology substantially reduces that risk by allowing drivers to keep their hands on the wheel and eyes on the road.. Mr. Reinhart said Ford supports a ban on hand-held text messaging while driving while not prohibiting people from using their Ford's Sync system or other systems that send hands-free messages.

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Chairman Hayzlett recognized Dr. Jason Eberhart-Phillips, State Health Officer and Director of Health for the Kansas Department of Health and Environment. (Attachment #8) Dr. Eberhart-Phillips said motor vehicle crashes are a serious, though preventable, public health problem, causing over 350 deaths in Kansas each year. He said unintentional injuries kill more Kansans ages 1-34 years than any other cause, and motor vehicle crashes result in nearly half of these deaths. He concluded that by using available data from recent surveys and assuming that users of text messaging comply fully with a ban on sending, reading or writing text messages while driving, we can expect that in Kansas this law will save between seven and 29 lives per year.

The last proponent was Major Mark Bruce, Kansas Highway Patrol. (Attachment #9) Major Bruce said the KHP supports efforts to prohibit a distracted driving activity known to be a frequent factor in and cause of traffic crashes. He said they would also support a more comprehensive ban on the use of electronic devices that includes cell phones. Major Bruce provided a couple of suggestions to clarify language. He also asked the Committee to consider clarifying subsection (c)(4) which provides an exception to a person using a global positioning or navigational system.

The Chairman drew the Committee's attention to written testimony submitted by Warren Chip Woods, President, Kansas County Highway Association (Attachment #10) and Lee Wright, Farmers Insurance Group (Attachment #11) in support of **HB 2439**.

Chairman Hayzlett asked if there was any opposition to this bill and no one responded.

After all questions had been answered, Chairman Hayzlett closed the hearing on **HB 2439**.

There being no further business before the Committee the meeting was adjourned. The next meeting will be on Wednesday, January 20, 2010.

# HOUSE TRANSPORTATION COMMITTEE GUEST LIST

DATE: 1-19-10

NAME	REPRESENTING
Dina Fisk	VERIZON WIRELESS
Rob Johnson	Federal Consulting
Ed Kuopp	KAPF/KSA/KPOA
RON CACHES	AAA
Tony Reinhart	Ford Motor Co.
Kevin Keatley	Kansas Association of Counties
Sandy Brader	GBA
Kerri Spielman	KATA
Don Seebur	KARA
Michael McLin	KDKR
Amanda Melem	KDCRC
KEVIN GREGG	KMCA
Rep Phil Hermanson	State of Kansas
TOM DAY	KCC
Tom Smith	KDDR
William Taylor	
Edward Taylor	319
Mike City	City of Wichita





Mark Parkinson, Governor  
Terry L. Maple, Superintendent

www.kansashighwaypatrol.org

**Written Testimony on House Bill 2439  
House Transportation Committee**

**Prepared by  
Major Mark Bruce  
Kansas Highway Patrol**

**January 19, 2010**

The Kansas Highway Patrol (KHP) appreciates the opportunity to provide written testimony regarding House Bill 2439. The provisions of this bill generally prohibit the operator of a motor vehicle from texting while driving.

The KHP supports this committee's efforts to prohibit a distracted driving activity that is known to be a frequent factor in and cause of traffic crashes. We would also support, should the committee wish to pursue it, a more comprehensive ban on the use of electronic devices that includes cell phones.

We do have a few suggestions that might clarify some of the language in this bill. We would suggest that the "exceptions" portion be changed as follows:

- subsection (c) (1) be changed from "An authorized emergency vehicle;" to "When used by law enforcement officers or emergency services personnel acting within the course and scope of their employment;". As written, a law enforcement officer conducting undercover operations in a completely unmarked/unequipped vehicle would be prohibited from communicating by text with other officers or dispatch.
- subsection (c) 2 be changed from "a motor vehicle stopped off the regular traveled portion of the roadway;" to "a motor vehicle legally parked;". The current language conflicts with existing law. As an example, it is illegal to stop on the shoulder of a controlled access highway (interstate/turnpike).

We would also ask that the committee consider clarifying subsection (c) (4) which provides an exception to "a person using a global positioning or navigational system.". It seems that the intent of this body would be to allow for the use of navigational systems built into a vehicle or aftermarket devices such as those produced by Tom Tom and Garmin. However, as written, this exception would allow for a cell phone to be used to obtain directions and navigational information. This is as equally distracting as sending or receiving text messages.

Again, the Kansas Highway Patrol appreciates the opportunity to provide its input regarding this bill. We applaud your efforts to promote and improve traffic safety.

###

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Attachment # 9

# Kansas County Highway Association

Chip Woods, President

Dale Pfannenstiel, President Elect

Tom Kramer, Secretary-Treasurer

1115 W. Avenue A, McPherson, KS. 67460-5241

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January 19, 2010

RE: House Bill No. 2439  
Texting prohibition

Dear Chairman Hayzlett and Committee Members:

I am the Lyon County Engineer and the President of the Kansas County Highway Association. The Kansas County Highway Association consists of the County Engineers and Road Supervisors of Kansas counties. The counties maintain 109,000 miles of road and 19,650 bridges. That is 87% of the road mileage in Kansas, and 77% of the state's bridges.

The Kansas County Highway Association supports House Bill No. 2439, which prohibits texting while operating a motor vehicle. Driving is a serious endeavor that can turn tragic in an instant of inattention. This is especially true on two lane rural roads where speeds are high and where the roads may not have shoulders. A driver has many distractions such as passengers, radio, and cell phone. But only dialing the cell phone and texting requires the full attention of the driver for a relatively long period of time.

Any action that would reduce driver distractions will result in fewer deaths and injuries on our roads and that is the reason we think H.B. 2439 is a good bill.

We ask the committee to support the legislation and pass it on to the Senate for their consideration.



Warren Chip Woods, P.E. & L.S.  
President, KCHA  
Lyon County Engineer, Surveyor, & A.D.A. Coordinator

House Transportation  
Date: 1-19-10  
Attachment # 10



FARMERS

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January 19, 2010

To: Chairman Hayzlett and House Transportation Committee

From: Lee Wright, Farmers Insurance Government Affairs Representative

Subject: Prohibiting Texting while Driving – HB 2439

Position: Support

Mr. Chairman and members of the Committee. Thank you for allowing Farmers Insurance to provide written testimony in **support** of legislation prohibiting texting while driving, as found in **HB 2439**. Farmers is a personal and commercial lines property and casualty insurer writing business in Kansas and serving our state's insurance consumers since 1930.

It has become clear from the increasing body of safety research and studies that motorists, using wireless telecommunication devices to text while driving, pose a serious danger to the driving public.

A recent study completed by University of Utah psychologists determined motorists who write text messages while driving are six times more likely to crash than those who don't text while driving. The researchers found that texters, while in a driving simulator, had more crashes, responded more slowly to brake lights in cars in front of them, and showed impairment in forward and lateral control than did drivers who talked on a cell phone while driving or drove without texting.

Another study conducted by Clemson University using driving simulators found drivers texting or using iPods caused the drivers to cross the center line or leave their lane roughly 10 percent more than those drivers simply talking on cell phones.

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U.S. Department of Transportation Secretary, Ray LaHood held a recent national summit on distracted driving that was immediately followed by President Obama's Executive Order banning federal employees from text messaging while driving on official business when using either a government vehicle or a government supplied electronic communication device.

In 2009, the Virginia Tech Transportation Institute (VTTI) released the results from their comprehensive study based on real-world driving conditions and data. Their studies of light vehicle drivers and truck drivers manually manipulating cell phones indicated text messaging on a cell phone to be associated with the highest risk for a crash or near crash event of all cell phone related tasks. Based on the findings from research studies, VTTI recommends texting should be banned in moving vehicles for all drivers.

We agree with VTTI's recommendation and we share their same concern that texting has the potential to create a true crash epidemic if the popularity of texting continues to grow and the generation of frequent text message senders reach driving age in large numbers.

Farmers believes it is time for Kansas to join the fifteen other states and Wash. D.C. who have passed legislation to ban text messaging while driving.

We urge your support of House Bill 2439.

Thank you.



Mike Scott  
Director  
External Affairs

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Testimony of Mike Scott, Director-External Affairs, AT&T Kansas  
In support of HB2439 – Banning Texting While Driving  
Before the House Transportation Committee  
January 19, 2010

Mr. Chairman and Members of the Committee,

My name is Mike Scott and I'm Director-External Affairs for AT&T Kansas and spokesperson for the Coalition in Support of HB 2439. I appreciate this opportunity to speak with you regarding the very important issue of banning texting while driving.

**BACKGROUND**

Texting is increasingly becoming the way many communicate. According to CTIA, the international association for the wireless telecommunications industry, text messaging has experienced a tenfold increase in the past three years. It is becoming the way many people communicate today, which means some of us may be doing it at the worst possible time – while driving. The statistics on the risks of texting and driving are clear. A driver who sends text messages while driving is 23 times more likely to be in a crash than one who does not, according to a study by Virginia Tech Transportation Institute. These statistics on the risks of texting and driving indicate this is an important issue to address.

We certainly feel that way at AT&T as do many other Kansas businesses and organizations. That's why this past fall a coalition was formed to address this very real problem of texting while driving and to help develop legislation that would prohibit it.

Before proceeding I should explain the term texting is kind of an all-encompassing term. The proposed legislation would also prohibit the reading or sending of e-mail or instant messages while driving.

From the beginning our coalition had a goal in mind and we never deviated from it. That goal was to ban texting while driving and to make Kansas roads safer for all drivers. . .not just those doing the texting.

Our coalition currently consists of the following businesses and organizations -- Kansas AAA, League of Kansas Municipalities, Farmer's Insurance, Sprint, Kansas Department of Transportation, Alliance of Automobile Manufacturers

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Association, city of Shawnee, city of Manhattan, Kansas Association of Chiefs of Police, Kansas Sheriff's Association, Kansas Peace Officers Association, Kansas Association of Counties, Kansas Highway Patrol and AT&T.

As you can see, this is a well-rounded group that includes businesses, travel, cities, counties, the state transportation department, law enforcement and insurance. A few cities in Kansas are now considering local ordinances that would restrict texting while driving. But it's the desire of our coalition to pass a state law that applies consistently to all areas of Kansas rather than a patchwork of local ordinances.

Individuals from some of our coalition groups will testify further about this bill after I get through but it's been a pleasure working with all of these folks on this project to this point. I believe we've put aside our own self-interests and have come up with a bill that is good for all Kansans.

## **PROPOSAL**

Our proposed legislation before you is fairly simple. . .the key provision of the bill is that no person shall operate a motor vehicle on a public street or highway while using an electronic wireless communications device to type, write, send, or read a written communication.

And when we say "write, send, or read a written communication" we define that as using an electronic wireless communications device to manually type, send, or read a written communication, including, but not limited to, a text message, instant message or electronic mail.

Exceptions contained in the bill are for texting by law enforcement personnel, for emergency reasons, while legally parked, reporting illegal activity to law enforcement or preventing injury to a person or property.

A violation is a traffic infraction punishable by a fine of \$100 per offense. From and after the effective date of this act and prior to July 1, 2011, only a warning citation would be issued.

## **AT&T EFFORTS TO BAN TEXTING WHILE DRIVING**

Before yielding to other members of our coalition who will speak in favor of the bill, I want to mention my own company's efforts to ban texting while driving. At first, it might seem a little unusual for a wireless phone company like AT&T to help

curtail the use of a service that it sells. Don't get me wrong, at AT&T we want our customers to use our products and services. We just want them to be used safely.

We have launched a nationwide campaign to educate our own employees, our customers (youth, teens and adults) and the general public about using wireless devices safely. There are many different elements of our campaign but we believe it has the potential to reach millions and, hopefully, help generate a change in thinking and behavior of all wireless users.

### **SUMMARY**

This bill is important and very much needed. Our coalition feels now is the right time to get it passed. According to the Governor's Highway Safety Association currently 19 states plus the District of Columbia ban texting while driving. We'd like for Kansas to join the list.

Thank you very much for your consideration.

**TESTIMONY BEFORE  
HOUSE TRANSPORTATION COMMITTEE  
REGARDING HOUSE BILL 2439  
RELATED TO TEXTING WHILE DRIVING**

**January 19, 2010**

Mr. Chairman and Committee Members:

I am Pete Bodyk, Manager of the Kansas Department of Transportation's Traffic Safety Section. I am here to provide testimony in support of House Bill 2439, prohibiting texting while driving.

Reading, writing, or sending text messages while driving is a very dangerous practice. A study conducted by Virginia Tech and the National Highway Traffic Safety Administration (NHTSA) found that nearly 80 percent of traffic crashes are caused by some form of driver inattention within three seconds before the crash. All it takes is a few seconds of inattentive driving to cause a very serious accident. To compound the problem, a recent survey showed 46 percent of teens admitted to texting while driving. Texting and emailing while driving is a growing phenomenon that not only puts the inattentive driver at risk, but also endangers other travelers on the road.

Nineteen states and the District of Columbia ban texting while driving, nine states ban texting while driving by novice drivers, and numerous other states are currently considering bans. The department seeks to make our roads as safe as possible for the motoring public. However, with all of the safety programs that are available, only so much can be accomplished without laws that inform people of what is an acceptable, safe, legal way to conduct themselves when driving in Kansas. A law that prohibits texting while driving will contribute to making all travelers in Kansas safer.

Thank you for your time. I will gladly stand for questions at the appropriate time.

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Attachment # 2



**TESTIMONY, HB 2439**  
*Presented by James R. Hanni,*  
*Executive Vice President, AAA Allied Group*  
**January 19, 2010**  
**House Transportation Committee**

AAA is pleased to be part of a broad-based coalition of organizations with expertise and interest in the traffic safety consequences of texting while driving and supports HB 2439 as the most effective way to address this new and growing concern on Kansas roadways.

**Why is a ban on text messaging necessary?**

Two recent surveys of the motoring public by the AAA Foundation for Traffic Safety show that 21 percent of motorists of all ages admit to text messaging while driving. Young drivers are more likely than older drivers to text message. Nearly *half* of drivers ages 18 to 24 admit text messaging while driving at least occasionally.

Texting while driving presents a danger to all road users due to the significant time involved in writing, reading and sending messages – all activities that take the driver’s eyes – and mind – off the road.

AAA has a long standing position of concern for all forms of distractions, not singling out one over the other but rather of having a comprehensive approach to legislative, administrative and educational efforts to deal with distracted driving. However, the significant cognitive, visual and physical distractions involved in text messaging while behind the wheel make it an exceptionally dangerous activity, which stands out among other distractions as a danger needing special attention in law.

**The research on texting while driving**

Ample research now makes texting while driving a clear and present danger. The AAA Foundation for Traffic Safety analyzed data from a 2006 Virginia Tech Transportation Institute (VTTI) study involving 100 drivers in natural settings and found that taking one’s eyes off the road for more than two seconds doubles the risk of a crash. Earlier this year, the Institute found that commercial truck drivers who are texting while driving are 23 times more likely to crash. Researchers also found that a driver spends an average of nearly five seconds (4.6) looking at a texting device and not on the road. That’s long enough for a vehicle going 55 miles per hour to travel the length of a football field without having any cognitive, visual or physical driver connection with what’s going on around the vehicle and in the roadway.

**Why a texting ban and not one for cell phones?**

There is both strong scientific and public support for banning texting by drivers. In addition to the significant risks posed by texting drivers, the strong public support for these laws and the rapid expansion in texting by the public lead AAA to support these laws. In a variety of studies over the past few years 87-96 percent of Americans believe that text messaging while driving should be illegal. At the enactment of Utah’s law, a Dan Jones & Associates poll released showed 91 percent support for the law.

The risks posed by texting and cell phone use differ and are apparent in both the available texting-specific research and the simple mechanics of the two activities. The 23-fold increase in crash risk among text messaging commercial truck drivers studied by VTTI

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greatly exceeds the four-fold increase in risk researchers associate with cell phone use by drivers. Studies have shown mixed results for the effectiveness of handheld cell phone bans. There is not strong public support for full cell phone bans.

**The effectiveness of text messaging bans**

In anticipation of California's passage of a ban on text messaging while driving in that state, the Auto Club of Southern California conducted a series of on-the-street surveys using systematic random samples of 16,500 vehicles passing seven roadside sites in Orange County. Conducted during five time periods – June, July and October, 2008 (pre-ban) and May and July, 2009, post-ban – vehicles were observed at varying times of day and on varying roadways to provide an overall look at in-vehicle texting. The number of drivers observed text-messaging pre-ban dropped by 70 percent in the post-ban surveys. Through August, only 1,061 texting tickets were issued statewide, a testament to the effectiveness of California's *primary* enforcement law.

This Kansas coalition bill has been researched and well developed with broad based input. AAA is pleased to support it and hopes the House Transportation Committee favorably recommends the bill for passage.



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League of Kansas Municipalities

**To:** House Transportation Committee  
**From:** Don Moler, Executive Director  
**Re:** Support for HB 2439  
**Date:** January 19, 2010

First I would like to thank the Committee for allowing the League to testify today in support of HB 2439. As I am sure you are aware, municipal courts adjudicate most of the traffic offenses in the State of Kansas, and this would be no exception to that rule. The League is here today to support this legislation as a matter of public safety.

Passing HB 2439 would allow for statewide, enforcement and at the same time allow for dual jurisdiction with cities across the state. As I edit the *Standard Traffic Ordinance for Kansas Cities*, and have done so since 1986, I can assure you that should this legislation pass, it will be included in the *Standard Traffic Ordinance for 2010*.

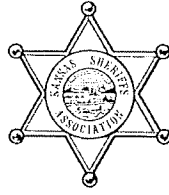
The League believes that public safety should be at the forefront of government activities, and as such this legislation will help to preserve the safety of the citizens of Kansas by removing texting while driving from the category of legal activities in a motor vehicle. We thank the Committee for being willing to entertain this bill in such an expeditious fashion, and we sincerely hope the committee will favorably report it out for passage. I will be happy to answer any questions the Committee may have concerning the League's support of HB 2439.





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Chiefs of Police**

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Association**

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**Kansas Peace Officers  
Association**

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**Testimony to the House Transportation Committee  
In Support of HB2439  
Texting While Driving**

January 19, 2010

Mr. Chairman and Committee Members,

The Kansas Association of Chiefs of Police, the Kansas Sheriffs Association, and the Kansas Peace Officers Association support passing a law prohibiting texting while driving. HB2439 is a bill developed through a cooperative coalition involving local and state law enforcement, traffic safety promoters, KDOT, telecoms, the automotive industry, and others. This bill is specific to texting and does not attempt to limit telephonic cell phone use.

There has been much publicity in the past few years regarding tragic results from operators of motor vehicles involved in serious, sometimes fatal crashes, while the vehicle operator is distracted due to texting. There is little to debate regarding the need for this legislation. It will save lives, it will reduce injuries, and it will reduce property damage.

Our associations believe this bill best addresses the concerns of the areas of interest involved in its development. It is our belief this bill balances the interests of public safety, legitimate exemptions, and appropriate violation sanctions to encourage compliance while maintaining the violation as a traffic infraction.

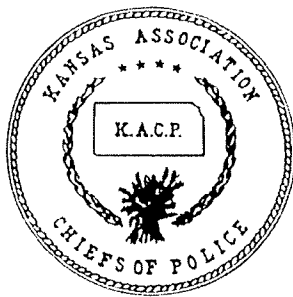
One of the concerns sometimes associated with these types of traffic laws is how law enforcement can enforce the proposed law. There are many laws on the books that produce enforcement challenges. These include criminal law as well as traffic law. But this is what law enforcement training and experience is able to overcome to a large degree. While the difficulty and complexity in the enforcement of various laws will impact the ease of enforcement, this law is enforceable. No we won't catch them all. And yes, some will get by with it when we can't prove our case. But in the end this law along with strong public education coupled with enforcement action will produce a strong voluntary compliance of the law and will result in reasonable enforcement action whenever possible. This plan has been shown to work in the decreased child injuries and deaths achieved with the child safety seat laws as well as other traffic laws.

I have attached a document I authored regarding traffic enforcement challenges. In that article I have attempted to explain how officers can and do meet those challenges. Enforceability is not a valid reason to question the potential effectiveness of this law.

We urge you to recommend this bill favorable for passage to the full House.

Ed Klumpp  
Legislative Liaison  
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(785) 640-1102

House Transportation  
Date: 1-19-10  
Attachment # 5



## OFFICERS

Todd Ackerman  
President  
Marysville Police Dept.

Ron Olin  
Vice President  
Lawrence Police Dept.

Frank Gent  
Sergeant at Arms  
Beloit Police Dept.

Mike Keller  
Treasurer  
Andover Police Dept.

Sean Wallace  
Recording Secretary  
Ark City Police Dept.

James Hill  
SACOP Representative  
Salina Police Dept.

Bob Sage  
Immediate Past President  
Rose Hill Police Dept.

Doyle King  
Executive Director  
KACP

## REGIONAL REPRESENTATIVES

Ralph Oliver  
Region I  
KU Public Safety Dept.

Sam Budreau  
Region II  
Chanute Police Dept.

Ronnie Grice  
Region III  
KSU Public Safety Dept.

Jim Daily  
Region IV  
Newton Police Dept.

James Braun  
Region V  
Hays Police Dept.

Vernon Ralston  
Region VI  
St. John Police Dept.

December 30, 2009

## Enforcing Texting and Cell Phone Laws

By Ed Klumpp, Chief of Police, Retired, Topeka (KS) Police Department

Many existing laws present enforcement and behavioral change challenges. Examples include underage purchase/possession of alcohol, age restricted driving, underage purchase or use of cigarettes, and child restraint or seatbelt violations. Even some criminal laws present enforcement challenges. For example: prostitution, patronizing a prostitute, drug dealing, and illegally carrying a concealed weapon. Texting and cell phone laws may well soon take their place in this list. At the same time, these examples indicate some of the strategies that will make these laws both enforceable and positive contributors to safer driving.

Obviously the first challenge presented by such laws is enforcement. Just as doctors use their training, skills, and experience to gather information and look for signs and symptoms of disease to make a diagnosis, law enforcement officers are adept to using observations, information, experiences, logic, and common sense to initially develop reasonable belief a law is being violated, then to investigate further to determine if probable cause exists, and finally to identify sufficient quality evidence to support prosecution and convictions. In effective enforcement, it is seldom a single observation or piece of information that leads to the final result. Rarely is a drunk driver initially detected by the simple odor of their breath or the stumbling gait of their walk. Rather, it is a collection of observations or information that indicate a violation: driving an inappropriate speed, not staying in the driving lane, drifting and overcorrecting, or even information supplied by a citizen. Occasionally, in fact, additional observations and information reveals that the observed actions result from other causes such as drowsiness, and thus no DUI violation has occurred. This is similar to the doctor's lab test results, x-rays, or MRIs revealing that the initial diagnostic theory was incorrect.

In the case of enforcing the use of a cell phone while driving, law enforcement officers must use this same technique of applying a combination of observations, information, experiences, logic, and common sense. These violations are easily identified when a vehicle is operated at an inappropriate speed, not staying in the driving lane, drifting and overcorrecting, along with quickly and repeatedly alternating between looking at the road and looking at an electronic device, holding a cell phone to their ear and talking, or while they are pushing buttons on the device. These observations are easily interpreted, reported, and articulated in testimony.

But what if the law only covers texting? How do you distinguish between the dialing of the phone for a phone call and typing a text message? While this is more challenging, there are clear signs of this type of use of the device. How long are they typing on the key board of the phone? A phone call only takes about ten key strokes. Does the driver type on the keyboard but never put it to their ear? Does the driver's look at the device screen last longer than the quick glance necessary to see the caller ID information? Officers will also learn other factors to watch for as they gain experience in enforcing these laws.

Of course there are legal provisions legislators can include to aid enforcement. Obviously, the ban of any cell phone use while operating a vehicle is easier to enforce than a law that only covers texting. One state with a cell phone ban makes it a prima facie case if the driver is holding the cell phone to their ear while driving. Another makes it presumptive but rebuttable evidence of a violation if the device is held in a conspicuous manner indicating illegal use of the device. Both activities can be very enforceable even though clearly not all violators will be caught. Of course no law results in the identification, apprehension, and conviction of every violator.

In evaluating these laws in terms of behavioral change strategies, it is important to remember the lesson learned over the years of implementing seat belt laws. About a third of the people will do what is right through education without a specific law. About another 15-20% will comply just because a law exists without further direct law enforcement intervention. Combining a law with public education information will gain another 10% or so. Active enforcement of the law will add an additional 15-20% compliance. The compliance rate will be negatively impacted by a "secondary offense" law versus a "primary offense" law. The seat belt compliance rate is significantly enhanced in states with a primary law versus those with a secondary law. Secondary laws make a statement that a violation is acceptable as long as you don't violate another law at the same time. This thinking results in more frequent harmful events occurring before law enforcement can take enforcement action.

The bottom line is the mere existence of a law addressing distracting cell phone or texting activity by a driver will create a valuable positive impact on driver conduct and enhance everyone's safety. A law written without loopholes as a primary offense is enforceable. That enforceability can be enhanced by including prima facie or presumption clauses into the law. A law that is understood by the public, accompanied with education of why compliance is important, and enforced by law enforcement will result in the optimal positive change in driver behavior and highway safety.

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Ed Klumpp retired from the Topeka (KS) Police Department after serving 35 years on the Department. During his service with the Topeka Police Department his assignments included patrol, patrol supervisor, commanding the accident investigation unit, commanding the traffic enforcement unit, and several administrative positions. His duties included instruction in the Topeka Police Training Academy on many topics including criminal laws, traffic laws, and enforcement of the laws. He led the Department's effort in achieving CALEA accreditation and in developing community policing within the Department. Since retirement he has served on the Kansas Criminal Code Recodification Commission, the Kansas DUI Commission, and serves as the Legislative Committee Chair for the Kansas Association of Chiefs of Police. He also serves as the legislative liaison for other Kansas law enforcement associations.



**Testimony of Sandy Braden  
Gaches, Braden and Associates  
On behalf of the Alliance of Automobile Manufacturers  
In Support of House Bill 2349  
Before the House Transportation Committee  
January 18, 2010**

Mr. Chairman and Committee Members, thank you for the opportunity to provide testimony to the House Transportation Committee today on behalf of the members of the Alliance of Automobile Manufacturers in support of HB2349, an act to prohibit text messaging while operating a moving motor vehicle. The Alliance of Automobile Manufacturers (the Alliance) is an association of 11 vehicle manufacturers including BMW Group, Chrysler Group LLC, Ford Motor Company, General Motors Company, Jaguar Land Rover, Mazda, Mercedes-Benz USA, Mitsubishi Motors, Porsche, Toyota and Volkswagen Group of America.

Alliance members have long recognized the risks of distracted driving and support a ban on both texting and calling using a hand-held mobile telephone while driving. Support for this initiative has been an ongoing effort at the Alliance. In 2002, voluntary safety guidelines to enhance driver focus when using telematics were developed by the Alliance and peer-reviewed by the Intelligent Transportation Society of America, the Society of Automotive Engineers, the Consumer Electronics Association, AAA, the National Safety Council, AIAM and the Truck Manufacturers Association. The Alliance committed to comply with these guidelines to the National Highway Traffic Safety Administration (NHTSA). These guidelines were updated in 2003 and finalized in 2006.

Members of the Alliance have voluntarily developed and implemented design guidelines when designing their vehicles to provide for integrated vehicle information systems that allow for the use of communication technologies in a safe, responsible manner. Many of these current and new safety technologies and enhancements use wireless communications as a backbone; providing automatic crash notification, road hazard notification and real-time road navigation. As such, the Alliance supports an approach that addresses the issue while preserving these technologies designed to enhance safety.

The Alliance has taken steps at the federal level to support limiting distracted driving. First, the Alliance has announced support for federal legislation sponsored by Senator Chuck Schumer (D-NY) and Representative Carolyn McCarthy (D-NY) that would encourage a more rapid transition to hands-free and voice-activated technologies. The Alliance has also been working with NHTSA and others since December, 2009 to develop model language at the federal level to ban texting while driving.

House Transportation  
Date: 1-19-10  
Attachment # 6

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Additionally, as recently as September 30, 2009, the Alliance participated in the Distracted Driving Summit held by the U.S. Department of Transportation in Washington, DC, where the emphasis was to ensure that drivers must have “eyes on road” to respond to road conditions and to insure that vehicle integrated technologies are designed to help drivers keep their eyes on the road. A copy of their presentation is attached.

At that Summit, The Alliance provided a three point action plan, which includes:

1. **Appropriate Laws with a High Visibility Enforcement**, supporting adoption and enforcement of a ban on texting while driving using a hand-held device;
2. **Consumer Education**, supporting education for drivers on the risks of driving distractions, including text messaging, hand-held mobile telephone use, eating, grooming, etc.
3. **Technology**, supporting continued research that promotes further understanding of driver behaviors and to ensure these actions do not preclude safety benefits of advance wireless technologies

It is important to focus on the subject of this bill, to support the adoption and enforcement of a ban on texting while driving using a hand-held device and to not eliminate the use of technologies, existing and yet to be developed, that assist in the goal of safe driving in Kansas.

The Alliance asks your support in providing a ban on texting while driving using a hand-held device, and to include amendments to ensure that the use of advanced technologies in the vehicle is not prohibited.

Thank you and I will be available to answer any questions.

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6-3

# HELPING TO KEEP “Eyes On Road”

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Distracted Driving Summit

U.S. Department of Transportation

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DRIVING INNOVATION®

Renaissance Hotel  
Washington, DC  
September 30, 2009

# Concern: “Eyes off Road” Principal Contributor to Crashes

*“An important finding... is that 80 percent of all crashes... involved the driver looking away from the forward roadway just prior to the <crash>.”*

*-VTTI 100 - Car Study (DOT HS 810 593)*



- Drivers must have “eyes on road” to respond to road conditions
- Potential exists for information and communications technology to take the driver’s eyes off the road
- Vehicle-integrated technologies are designed to help drivers keep their eyes on the road

# Helping to Keep “Eyes on Road”

## Driver Focus-Telematics Guidelines

- April 2000 initiated development of Driver Focus-Telematics (*DF-T*) Guidelines based on scientific research
  - Guidelines 1<sup>st</sup> ever to provide specific performance criteria/verification procedures for visual-manual interaction with in-vehicle information & communications systems
  - Commitment made to NHTSA in 2002
  - Alliance members engineering new vehicles in accordance with the DF-T Guidelines
- The Alliance committed to update the DF-T Guidelines as scientific understanding of driver distraction evolves



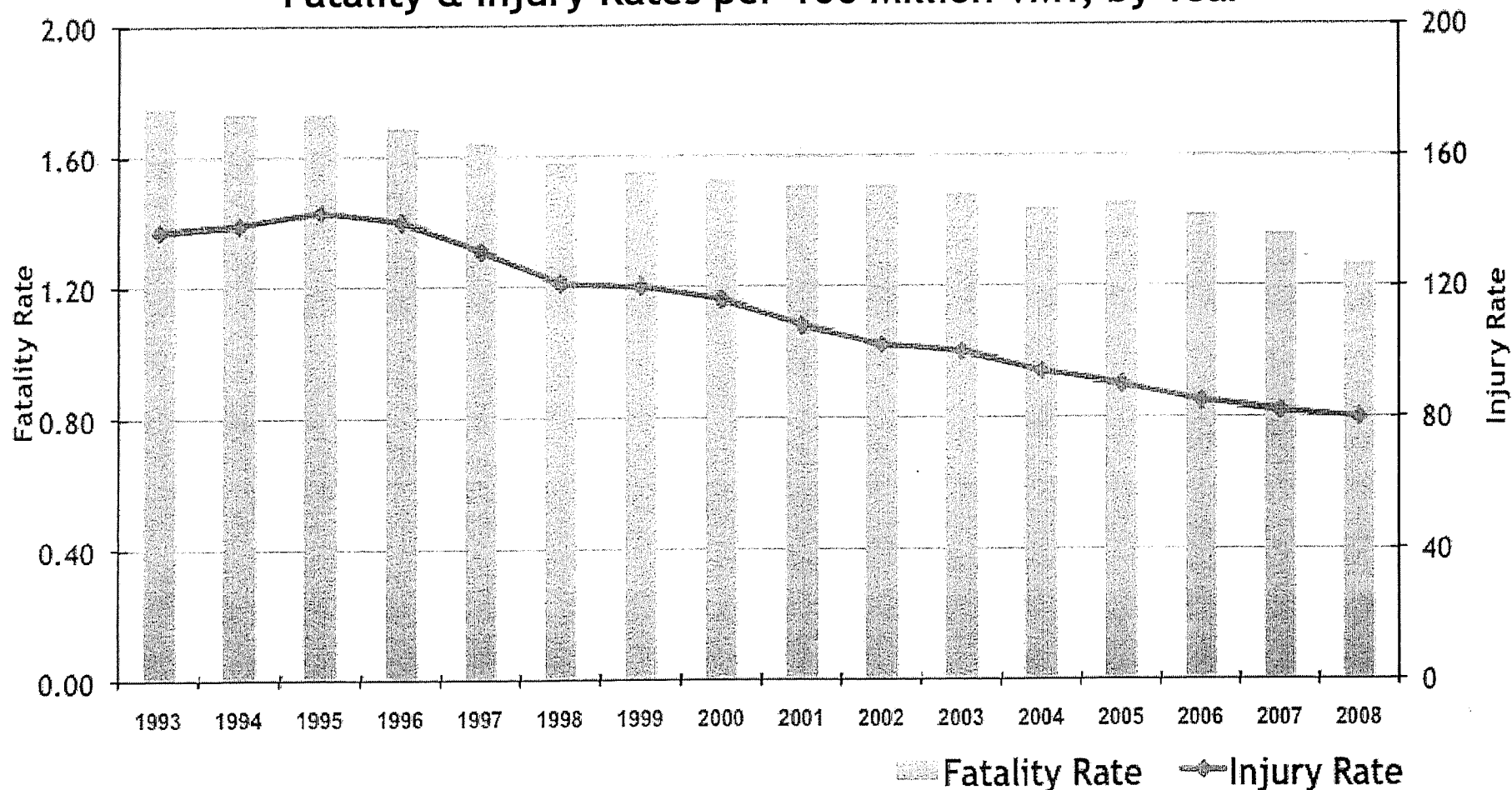


# Helping to Keep “Eyes on Road” Driver Focus-Telematics Guidelines

24 PRINCIPLES			OBJECTIVES
SEC	ITEM	QTY	
1	Installation	5	Ensure system design/location compatible with driving task
2	Information Presentation	4	Presentation of information so as not to impair driver's visual, cognitive, or auditory ability to safely perform driving task
3	Interaction w/ Controls & Displays	6	System interactions designed so that driver is able to safely operate vehicle comfortably and confidently
4	System Behavior	3	Presence, operation, or use of system does not interfere with other vehicle controls
5	System User Information	6	Provide customers with safety-relevant information on the use of telematics systems

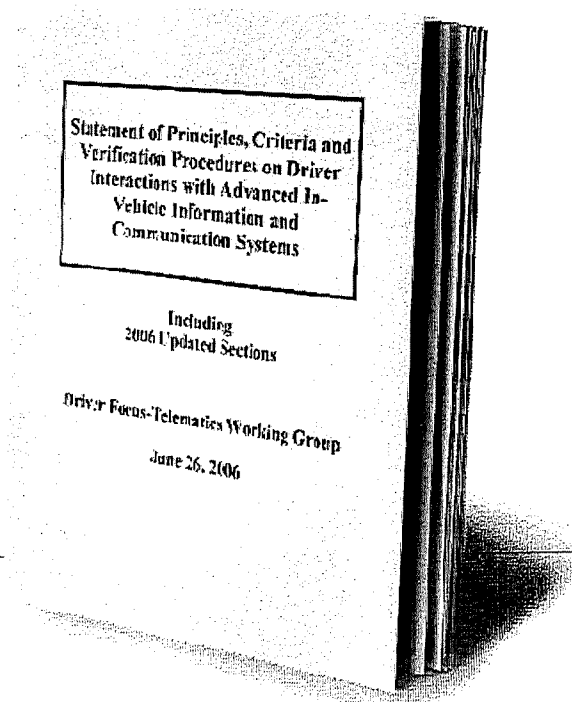
# Responsible, Realistic Action Necessary Need Data-Driven, Science-Based Policies

### Fatality & Injury Rates per 100 Million VMT, by Year



Source: FARS, NASS GES / FHWA

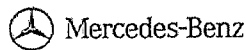
# QUESTIONS?



## AUTO ALLIANCE

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# Responsible, Realistic Action Necessary Preserve Opportunities to Enhance Safety

- Current in-vehicle safety technologies and applications use wireless communications as a backbone to enable:
  - Automatic crash notification (*ACN*)
  - Road hazard notification
  - Real-time road navigation
  
- Future advanced technologies such as U.S. DOT's IntelliDrive<sup>SM</sup>:
  - Wireless applications will provide connectivity between and among road users
  - Will enable real-time crash avoidance/active safety applications and improve mobility



# Alliance Recommendations

## 3 - Point Action Plan

- 1** **Appropriate Laws with High-Visibility Enforcement**
  - **SUPPORT ADOPTION & ENFORCEMENT OF:**
    - Ban on texting while driving using a hand-held device; and
    - Ban on calling while driving using a hand-held device unless in hands-free mode
  
- 2** **Consumer Education**
  - Support education for drivers on the risks of driving distractions  
*(text messaging, hand-held cell phone use, eating, grooming, etc.)*
  
- 3** **Technology**
  - Support continued research that promotes further understanding of driver behaviors
  - Ensure actions do not preclude safety benefits of advanced wireless technologies *(e.g., IntelliDrive<sup>SM</sup> and further innovations)*

**Testimony of Tony Reinhart  
On behalf of Ford Motor Company  
In Support of House Bill 2349  
Before the Kansas House Transportation Committee  
January 19, 2010**

Mr. Chairman and members of the Committee, my name is Tony Reinhart and I am here today on behalf of Ford Motor Company to testify in support of HB2349, the bill on banning text messaging.

At Ford, we think driver distraction is a critically important issue. Drivers experience many different types of distractions on a daily basis. The most complete and most recent research shows that activity that draws drivers' eyes away from the road for an extended period while driving, such as text messaging, substantially increases the risk of accidents. The reality is texting is a particularly difficult, visual-manual task. This is why Ford Motor Company was the first automaker to endorse a federal ban on hand-held text messaging while driving.

With that said, the hard reality is it is going to be difficult to stop drivers from having conversations, reading maps, getting directions, and listening to music while they drive. Ford believes hands-free, voice-activated technology substantially reduces that risk by allowing drivers to keep their hands on the wheel and eyes on the road. Ford supports a ban on hand-held text messaging while driving – and we endorse legislation introduced in Congress that would encourage a more rapid transition to hands-free and voice activated technologies.

This approach addresses a nationwide problem we can all agree is necessary to improve safety. The bill, with the amendments previously mentioned, would not prohibit people from using Ford's Sync system or other systems that send hands-free messages. We hope the State of Kansas will agree with this approach.

Thank you for considering our position. I would be glad to answer any questions you might have about our position on this issue and/or our Sync technology.

*Mr. Tony Reinhart  
Regional Director Government Relations  
Ford Motor Company  
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Suite 315  
Kansas City, Missouri. 64116*

House Transportation  
Date: 1-19-10  
Attachment # 7



Kathleen Sebelius, Governor  
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH  
AND ENVIRONMENT

www.kdheks.gov

**Testimony on HB 2439  
Prohibiting sending, reading or writing text messages**

**Presented to  
Committee on Transportation**

**Presented by  
Dr. Jason Eberhart-Phillips  
Kansas Department of Health and Environment**

**January 19, 2010**

Chairman Hayzlett and members of the Committee on Transportation, I am Dr. Jason Eberhart-Phillips, State Health Officer and Director of Health for the Kansas Department of Health and Environment. I am pleased to present testimony today in support of HB 2439 which proposes to prohibit sending, reading or writing text messages while driving.

Motor vehicle crashes are a serious, though preventable, public health problem, causing over 350 deaths in Kansas each year. Unintentional injuries kill more Kansans ages 1 – 34 years than any other cause, and motor vehicle crashes result in nearly half of these deaths.

On many occasions during the past 16 sessions, my predecessors and I have discussed the effectiveness of a primary seatbelt law on reducing needless injury and death from motor vehicle crashes. As you know, the body of literature to support a primary seat belt law in Kansas is extensive. After years of study and literally hundreds of publications, the indisputable expectation is that a primary seatbelt law in Kansas can be expected to save more than 140 lives each and every year it is in effect.

By comparison, text messaging while driving is a fairly new phenomenon. It is one of the fastest growing forms of communication in the United States. In 2008, 385 billion text messages were sent in the United States. In 2009 this number almost doubled to 771 billion.

The pool of literature describing the impact of text messaging is considerably smaller than that upon which we base conclusions of the impact of a primary seat belt law. However, the data to date present a convincing picture that a statewide ban on text messaging will, indeed, save lives. The consistent findings from studies conducted to date are clear: the risk of collision associated with texting while driving is surprisingly high, and is higher than other distractions.

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The Virginia Tech Transportation Institute conducted a study of commercial vehicle operators, whose results were documented by video camera recordings. A similar study conducted by the University of Utah, measured the differences in breaking distances between drivers who were texting and those who were not. By applying the increased risk statistics from those studies to KDOT crash data, it becomes clearly apparent that Kansans who text are between six and 23 times more likely to be involved in a crash compared to those are driving normally (without distractions).

<b>Kansas</b>	<b>Range between</b>
Crashes Avoided	2,981 - 5,381
Injury Crashes Avoided	291 - 4,138
Fatal Crashes Avoided	7 - 29
*Estimated numbers based on the data	

Using these data, and assuming for a moment that users of text messaging comply fully with a ban on sending, reading or writing text messages while driving, we can expect that in Kansas this law will save between seven and 29 lives per year. As texting becomes even more popular, it is logical to expect the number of lives saved by the law to increase, compared to having no law at all. Although the estimated savings at best represents only about 1/5th of the number of lives that could be saved by a primary seatbelt law, any measure that saves human lives in Kansas is significant from a public health standpoint and earns my support.

Thank you again for the opportunity to provide this information to the committee. I will be happy to answer any questions you might have.