

SESSION OF 2006

**CONFERENCE COMMITTEE REPORT BRIEF  
HOUSE BILL NO. 2916**

As Agreed to March 31, 2006

**Brief\***

HB 2916 would change the time for suspension of a person's driver's license on a second, third or fourth occurrence of a DUI to not less than a year.

Proof of the installation of an ignition interlock device for one full year of the restriction period to the Division of Motor Vehicle would be required before a person's driving privileges could be restored.

The bill would amend the Driving Under the Influence (DUI) law regarding commercial driving licenses as follows:

- Upon a first conviction, the penalty would be a class B nonperson misdemeanor with a sentence of not less than 48 hours up to six months imprisonment or, in the court's discretion, 100 hours of public service and a fine of not less than \$500 nor more than \$1,000.
- Upon a second conviction, the penalty would be a class A nonperson misdemeanor with a sentence of not less than 90 days up to one year's imprisonment and a fine of not less than \$1,000 up to \$1,500. A convicted person would have to serve at least five consecutive days imprisonment before any type of release, such as probation, suspension, parole, or reduction of sentence, could be granted.
- Upon a third conviction, the penalty would be nonperson felony with a sentence of not less than 90 days up to one year's imprisonment with a fine of at least \$1,500 up to \$2,500. A convicted person would not be eligible for release until after 90 days imprisonment. The court also would require, as a condition of parole, that the person enter into and complete a treatment program for alcohol and

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\*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. The conference committee summary report may be accessed on the Internet at <http://www.kslegislature.org>

drug abuse.

Further, the bill would raise the penalty for unlawfully hosting minors consuming alcoholic liquor or cereal malt beverages to a class A person misdemeanor. Under current law it is a class B person misdemeanor. The minimum fine would be raised from the current \$200 to \$1,000.

The bill also would amend K.S.A. 8-1012 to add an implied consent provision to the law dealing with preliminary testing for the presence of alcohol and drugs in a person. The bill also would amend the law to clarify that an officer must have reasonable grounds to believe a person has been operating a motor vehicle under the influence of alcohol or drugs before requiring a person to submit a preliminary breath screening test.

The bill also would amend the law regarding cereal malt beverages so that a person, under 21, could be requested to submit to a preliminary screening breath test if a law enforcement officer has reasonable grounds to believe the person has alcohol in their body. The results of the test or a refusal to submit to the test would be admissible in court but would not be per se proof of a violation. The Secretary of Health and Environment would be authorized to adopt rules and regulations.

### **Conference Committee Action**

The House Conference Committee agreed to all Senate amendments. Further, the Conference Committee agreed to the insertion of the following provisions:

- Added the implied consent concerning preliminary testing for drugs or alcohol;
- Added the provision regarding a preliminary screening breath test for alcohol for persons under 21; and
- Provided rule and regulation authority to the Secretary of Health and Environment regarding the procedures, testing protocols and qualifications of personnel and standards of performance in testing for controlled substances and alcohol.

## **Background**

Toby Taylor from the Kansas Ignition Interlock Association appeared in support of the bill. Pete Bodyk, with the Bureau of Traffic Safety in the Kansas Department of Transportation also spoke in support of the measure.

The Senate Committee added the proof for one full year requirement.

The Senate Committee of the Whole inserted the provisions regarding commercial drivers' licenses and unlawfully hosting minors consuming alcoholic liquor or cereal malt beverages. These latter provisions were taken from SB 517.

The fiscal note on the original bill indicates that the Department of Revenue states that the passage of HB 2916 would require revisions to the Kansas Driver's License System. The agency estimates it would require eight days of in-house programming to process the updates. However, these costs would be absorbed by the Department. The required programming for this bill by itself would be performed by existing staff of the Department of Revenue. However, if the combined effect of implementing this bill and other enacted legislation exceeds the Department's programming resources, or if the time for implementing the changes is too short, expenditures for outside contract programmer services beyond the Department's current budget may be required. Any fiscal effect associated with enactment of HB 2916 is not accounted for in *The FY 2007 Governor's Budget Report*.