

To: Joint House Committee on Corrections and Juvenile Justice
From: Steve Howe, Johnson County District Attorney
Date: January 24, 2012

Re: **Testimony on Senate Bill 6**

Committee Members:

I appreciate the opportunity to come before you to discuss the need for further changes to the DUI laws in Kansas. Last year, the DUI Commission made recommendations to you to provide fair and just penalties on DUI's. During conferencing, some of those recommendations were eliminated. Some of those eliminated provisions have a substantial impact on public safety.

One of the most important provisions dealt with the criminalizing of the refusal to submit to a breath test. You may ask why this provision is so important to public safety. Prosecutors throughout the State are facing a large volume of DUI offenders who refuse to perform field sobriety and breath tests. These professional drunks have numerous prior convictions and have become savvy enough to avoid cooperating with law enforcement. This leaves law enforcement and prosecutors with little evidence to convict them of their crimes. This has resulted in significant criminal justice resources being expended on these cases. For example, our jurisdiction has had 43 DUI jury trials in the last two years, 33 of which involved a defendant who refused to perform any tests.

Criminalizing the refusal to take a breath test would hold the professional drunks accountable for their actions while creating a safer environment for Kansans.

A second component is to re-examine the recommendation of strengthening the penalties for repeat offenders. Imposing the same penalties for the 4th time and a 8th time DUI offender undermines our ability to affect justice. Increasing the penalties can protect the public from habitual drunk drivers. This can be balanced with the ability of the courts to impose a variety of punishments, including jail time, work release and house arrest. A case by case determination would allow the courts to determine which alternatives are in the best interest of public safety. In 2010, Kansas had the second highest increase in DUI fatalities in the nation. There is a real need for these simple changes to our DUI laws, they can go a long way towards making our roads safer for Kansans.

Thank you for the opportunity to discuss this important issue dealing with public safety. If you need any additional information that would assist in your discussions, contact me at 913-715-3015.

Sincerely,

Stephen M. Howe
Johnson County District Attorney