

MEMORANDUM

To: Dennis Taylor, Secretary of Administration
Attn: Brendan Yorkey
From: Scott M. Schultz, Executive Director
Date: March 9, 2012
Re: Prison Bed Impact Assessment, SB 453 Driving Under the Influence

SUMMARY OF THE BILL

- Section 1. K.S.A. 8-241 is amended by allowing a reinstatement fee to be paid for the fifth and subsequent occurrence of a DUI or test failure.
- Section 2. K.S.A. 2011 Supp. 8-2,144, **Driving a Commercial Motor Vehicle Under the Influence**, is amended by changing the minimum fine from \$750 to \$500 for the first conviction; the minimum fine from \$1,250 to \$1,000 and the maximum fine from 1,750 to \$1,500 for the second conviction; and the minimum fine from 1,750 to \$1,500 for the third or subsequent conviction. This bill would also increase the minimum confinement from 240 hours to 2,160 hours for the conviction and deletes the requirement of the clerk of the district court to remit \$250 from each fine to be designated to the community corrections supervision fund.
- Section 3. K.S.A. 2011 Supp. 8-1008 is amended to require alcohol and drug evaluations not to be less than \$150 and that the court may pay for the evaluation if the offender is indigent.
- Section 4. K.S.A. 2011 Supp. 8-1014 is amended to restrict driving privileges after a breath test refusal in the following occurrences, driving only a motor vehicle with an interlock device:
 - First – two years;
 - Second – three years;
 - Third – four years;
 - Fourth – five years; and
 - Fifth and subsequent – ten years.
- Section 4. The division when notified may suspend a person's driving privileges if a person fails to follow a recommendation by a provider or the court. It would also require the division to credit any suspension or revocation time in excess of a year toward the required ignition interlock period under certain instances.
- Section 5. K.S.A. 2011 Supp. 8-1015 is amended to allow an offender to apply for restricted driving privileges from the division
- Section 6. K.S.A. 2011 Supp. 8-1020 is amended to require payment of the hearing fee as mandatory and at the time of filing of a request for hearing.
- Section 7. K.S.A. 2011 Supp. 8-1567, **Driving Under the Influence**, is amended by deleting habitual user as a subsection of the crime. It also amends the statute by changing the minimum fine from \$750 to \$500 for the first conviction; the minimum fine from \$1,250 to \$1,000 and the maximum fine from 1,750 to \$1,500 for the second conviction; and the minimum fine from 1,750 to \$1,500 for the third or subsequent conviction. It also increases minimum confinement hours from 240 to 2,160 on third and subsequent convictions.

- Section 7. This section also deletes impoundment of vehicle procedures and the ability of the court to take an offender's license plate or temporary registration certificate.
- Section 7. This section also deletes \$250 for each fine imposed that was designated to be remitted for the community corrections supervision fund.
- **The criminal penalties of this bill remain unchanged.**

FINDINGS

- In FY 2011, 1,650 offenders were convicted of the crime of felony DUI. Of this number:
 - 907 (55%) offenders were charged for the third conviction and
 - 743 (45%) offenders were charged for the fourth or subsequent conviction.
 - Of the 1,650 offenders, 766 (46.4%) were sentenced to jail and 884 (53.6%) were sentenced to probation.
- In FY 2011, no felony Commercial DUI convictions were reported to the Commission. According to the Kansas Bureau of Investigation, there were 13 misdemeanor arrests for the crime of Commercial DUI pursuant to K.S.A. 8-2,144 in FY 2011.

IMPACT OF THE BILL

- **Impact on prison admission and prison bed:** This bill would have **no impact on prison admission and prison bed need.**
- **Impact on the Workload of the Commission:** This bill would have no impact on the journal entry workload of the Commission.