

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, 10<sup>th</sup> 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 time offenders from thirty days to forty-five days. He stated Kansas law currently has, depending on the age

## CONTINUATION SHEET

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

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 an 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.
- 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.

## CONTINUATION SHEET

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

- 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, 10<sup>th</sup> 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.