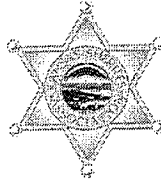




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**Testimony to the House Corrections and Juvenile Justice Committee
Regarding HB2771
March 14, 2012**

Chair Colloton and Committee Members,

The Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and Kansas Peace Officers Association strongly opposes section 3 of HB2771. We are not taking a position on the remainder of the bill.

The traffic offenses listed in section 3 all include right of way traffic infractions. These infractions are usually acts of lack of due care. They are not acts committed with intent. There is a good reason these cases are referred to as "accidents." Those that are the result of DUI, reckless driving, or other egregious acts while driving may be subject to prosecution under existing criminal law depending upon the circumstances. But the vast majority of right of way violation accidents remain a matter of a traffic infraction plus subject to civil litigation. We believe that is the correct level for these violations. These violators do not need to be placed in jail for extended periods of time barring some aggravating act which are already covered in other statutes. This section of the bill places an extreme unfunded mandate on local governments.

A significant number of traffic accidents are the result of right of way violations. According to the 2008 KDOT Accident Facts Book about 10% of all traffic collisions involve a right of way violation. I was unable to determine how many involved injury or death. That is about 7800 accidents per year caused by right of way violations.

There are several negative issues surrounding the suggested level of penalty for right of way violations.

- First, since they are not intentional acts and rarely involve recklessness the deterrent effect of high fines and potential imprisonment will do little to deter the violations.
- All of you are well versed at inquiring about bed space as you consider various bills. These provision will have enormous impact on local jail bed space. The cost of the required jail time cannot be justified for this violation.
- The suggested license suspension periods exceed what we do for serious violations where drivers have a higher level of culpability such as DUI.

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- The violations resulting in death, as provided on page 2 lines 10-27, are likely already covered by the vehicular homicide statute. At least they are when the acts leading to the violation are the result of operating a vehicle in a manner creating an unreasonable risk and materially deviating from the standard of care of a reasonable person.

Listed traffic infractions in HB2771 section 3 are: 8-1526 right-of-way; approaching or entering intersection; 8-1527 right-of-way turning left; 8-1528 stop signs and yield signs; 8-1529 vehicle entering or crossing roadway; 8-1531 highway construction or maintenance operations; duty of driver. You will note these violations include violations in addition to right-of-way violations. For example they include all stop sign violations.

The unintended consequences for this bill are great. Due to the higher traffic volume the vast majority of accidents involving right-of-way violations occur within the cities. If faced with these high volume of cases and the high cost associated with the mandated jail time, many cities will simply repeal their right-of-way statutes because they can't afford them. We saw this happen when the legislature required mandatory jail time for certain driving while suspended violations. This will cause these cases to be filed in the District Courts which will 1) cause a dramatic decrease in the cases being filed, and 2) decreased enforcement of these laws.

We strongly recommend section 3 be stricken from this bill if the committee chooses to proceed with it.

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