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**Testimony to Senate Judiciary Committee
In Support of SB7 Amending the DUI Statutes**
January 19, 2011

Chairperson Senator Owens and Committee Members,

The Kansas Association of Chiefs of Police, the Kansas Sheriffs Association and the Kansas Peace Officers Association stand in support of SB7. The continued carnage on our highways and the high incidence of recidivism by DUI offenders clearly indicate a great need to strengthen these laws. This bill, as proposed by the Kansas DUI Commission, was constructed with a great deal of study and thought on this complex and critical issue. This bill is by its nature complex addressing many facets of the DUI problem. Due to this complexity we feel certain there will be some well thought out amendments in the legislative process. But as a whole, this bill represents a path to decreasing the DUI recidivism and increasing highway safety in Kansas.

The increased use of ignition interlock devices has proven to reduce DUI related accidents in several states. Kansas should follow suit. But in the process of adjusting the sanctions from lengthy license suspension to a mix of short to moderate suspensions followed by a required use of interlock devices, we must be mindful of the unintended consequences that could have on the incentive to submit to testing. Kansas currently has a significant rate of test refusals for persons arrested for DUI. Such refusals enable a DUI suspect to evade successful prosecution resulting in no addiction evaluation, no treatment, no punishment, and no deterrence from recommitting the offense. Some other states have criminalized the test refusals resulting in dramatic reductions in refusals. This reduction leads to more offenders getting into treatment programs and fewer DUI related accidents. This bill contains such a provision fashioned after a law of a state neighboring Kansas. A method that has stood up to appeals and found to be constitutional in these other jurisdictions. We believe this is one of several key elements to successfully addressing the DUI problem.

Research has also shown driving under the influence of drugs is prevalent. This bill proposes a method to improve the ability of Kansas law enforcement to address this problem. The bill provides an avenue for approving new technology allowing roadside testing for the presence of illegal drugs in a person's system.

The change in sentencing structure is well justified. However, we must be careful how this impacts the local jail overcrowding problem. Some of the new sentencing provisions will result in more people going to the county jail or some people staying longer. However, other provisions will

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shorten the stay at the county jail and divert some repeat offenders to the state Department of Corrections for treatment. The proposal also allows the local jails to utilize work release and re-entry programs to assist DUI offenders to return to society in a manner encouraging decreased recidivism. **But we are concerned about the impact of these changes on local jail populations.** This concern is not yet fully analyzed because it is a complex process to estimate how the proposed changes will change DUI jail populations. We are not yet clear on whether the data is available to even make an accurate assessment of that impact. So this may be an area of future discussion as the bill progresses through the legislative process. It is clear that without the funding for DOC to create a meaningful DUI treatment program for those multiple offenders sentenced as felons the impact of this bill on local jails will be alarming. Such funding has to accompany these proposals or one of the drive wheels will fall off this bill.

One of the many problems with current law is determining whether an offender can be prosecuted as a 2nd, 3rd, 4th or subsequent DUI offender. A current problem is the lack of consistent information available to the prosecutors to make this determination. As a result the bill provides for the KBI operated KCJIS databases to be enhanced to better provide this information accurately and timely. This includes better reporting of DUI arrests, prosecution activity, and dispositions along with additional tools to monitor for additional DUI activity by an accused in other jurisdictions. This will require some level of funding for the KBI to improve the systems abilities in these key areas. Approval of the associated funding is critical for this important component of the DUI process.

Evaluation, treatment, and monitoring are the keystones to successful deterrence of re-offending along with the previously discussed appropriate punishment and sanctions. The bill proposes improvements in standardization of evaluations, assurance of proper qualifications of evaluators and treatment providers, and meaningful post release monitoring. None of those can take place absent successful prosecution. Yet we need to remember successful evaluation, treatment and monitoring can and will result in many of these offenders changing their lifestyle. Those making such changes deserve the opportunity to get their lives back on track to being successful contributors to society. This bill has the provisions to make these things possible while providing mechanisms to place those repeat offenders who refuse or fail to respond to such treatment and monitoring where they cannot harm the innocent.

Our associations stand ready to work with the legislature and other groups as this bill moves forward to assure an end result that will reduce the DUI problem in Kansas. Only through a well balanced process utilizing evaluation, treatment, punishment, sanctions and monitoring can this be achieved. It is also vital the needs of law enforcement and prosecutors to achieve accurate, timely, and successful prosecution of people committing these violations is well balanced with the rights of the defendants facing these serious charges. We believe those balances are contained in this bill.

We urge your careful consideration to support this bill.

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