



RE: Testimony on S.B. 7

## American Beverage Institute

Good morning Mr. Chairman and distinguished members of the Judiciary Committee. Thank you for the opportunity to submit testimony today. My name is Sarah Longwell and I am the Managing Director of the American Beverage Institute, a restaurant trade association representing more than 8,000 restaurants nationwide and over 100 in Kansas.

The American Beverage Institute opposes legislation requiring ignition interlocks for all drunk driving offenders. We believe that bills like S.B. 7 deny judicial discretion and ignore proportional response by mandating ignition interlock devices for marginal, first-time offenders.

This bill mandates that even drivers only one sip over the legal limit receive a punishment typically reserved for hardcore offenders who cause the vast majority of alcohol-impaired fatalities in Kansas.

A 120 pound woman who has consumed two 6-oz glasses of wine over a two hour period can reach a blood alcohol concentration (BAC) level of .08. Under S.B. 7, if this woman drives she will be subject to the same punishment as a chronic alcohol abuser who has had ten drinks prior to driving. While both of these people are guilty of a crime, they are two very different kinds of criminals. The court should recognize the difference between them and judges should have the discretion to punish them in proportion to their violation.

I would liken it to other traffic infractions. Speeding is one of the most deadly causes of traffic fatalities, yet we punish someone who drives 5 miles per hour over the speed limit differently from someone who drives 25 miles per hour over. Why? Because we recognize that the person driving 25 miles per hour over the speed limit poses a far greater threat to others' safety on the highway than the person driving 5 miles over the limit.

In fact, numerous studies have shown that a person is less impaired driving with a blood alcohol concentration of 0.08 than driving while talking on a hands free cell phone. Yet this is the impairment level at which S.B. 7 would mandate the installation of an ignition interlock.

The average BAC of a drunk driver involved in a fatal accident is .19%—that's more than twice Kansas's legal limit of .08%. It is these high-BAC drunk drivers, along with repeat offenders, that this drunk driving legislation should focus on, not marginal first-time offenders.

Pro-interlock activists will claim that this measure is budget-neutral for Kansas because the offenders pay for installation and maintenance of the device. However, this mandate will cost Kansas **over \$5 million per year to enforce**. This cost is based on a conservative estimate made by the American Probation and Parole Association (APPA) of \$3 per day to monitor each offender.

Additionally, there is no reason to believe that simply mandating increased use of interlocks without providing the necessary infrastructure will be effective. In a letter to Congress about interlocks, the APPA explained that "simply ordering offenders to have an interlock system installed is no guarantee that they will comply. Compliance has been a problem in nearly every

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state where the technology has been introduced. A workforce of probation officers is needed to ensure compliance with court-ordered ignition interlocks." As such, "states and localities will bear the burden of the cost of an adequate workforce to ensure compliance."

New Mexico was the first state to institute a policy requiring interlocks for all offenders and currently boasts the highest interlock compliance rate in the country which is a paltry 32 percent.

The APPA also pointed out that "No state - including New Mexico which requires the use of ignition interlocks for all DWI offenders - has the infrastructure in place or the resources currently (or in the foreseeable future) to implement such a far-reaching requirement."

The cost to the offender is also of concern. According to California's Assembly Appropriations Committee the cost for each offender prescribed an interlock "can exceed \$6,000." You can imagine the cost to a family whose father who was arrested one sip over the limit and now must install interlocks in any car with his name on the title or that he sometimes drives—his car, his wife's car, his teenagers' cars, his work truck, etc.

In addition, the APPA points out that "Not all offenders will have the ability to pay for ignition interlocks and the cost will have to be borne by either state or local government entities for those that do not have the means to pay." Most states with interlock laws have had to create an indigent fund to supplement these offenders.

That's why the APPA says, "further burdening OWI offenders with additional financial burdens related to ignition interlocks should be reserved for the most serious offenders or hardcore drunk drivers."

We agree wholeheartedly. The American Beverage Institute and its members encourage the use of ignition interlocks to punish high-BAC drunk drivers (0.15 BAC and above) and repeat-offenders. This population constitutes the "hard core" drunk drivers who don't benefit from alcohol treatment and probationary programs the same way most low-BAC, first-time DUI offenders do.

For those who choose to drive while extremely intoxicated and those who repeatedly flout the law, ignition interlock technology is an effective and proper law enforcement response. But we shouldn't punish someone one sip over the limit the same way we punish hard-core alcohol abusers.

In conclusion, I would like to point out that while my organization is the voice for restaurants, the hospitality industry as a whole shares our position on this bill.

I thank you for the opportunity to submit testimony, and look forward to working with the Committee on this very important issue.