

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Lance Kinzer at 3:30 p.m. on March 1, 2010, in Room 346-S of the Capitol.

All members were present except:

Representative Jeff King-excused
Representative Joe Patton- excused

Committee staff present:

Jason Long, 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
Lauren Douglass, Kansas Legislative Research Department
Jerry Donaldson, Kansas Legislative Research Department
Sue VonFeldt, Committee Assistant

Conferees appearing before the Committee:

Representative Anthony Brown,
Mike Schuttloffel, Kansas Catholic Conference
Clint Patty, Frieden, Forbes Law Firm
Senator Pilcher-Cook,
Terry Heidner, Kansas Department of Transportation
Karen Wittman, Assistant Attorney General
Laura Dean-Mooney, National President of Mothers Against Drunk Drivers
Matt Strausz, Ignition Interlock Association
Ed Klumpp, Kansas Association of chiefs of Police
Senator Marci Francisco,

Others attending:

See attached list.

The hearing on **HB 2651** - Lottery and parimutuel winnings; child support setoff was opened.

Jill Wolters, office of Revisor of Statutes, provided the committee with an overview of the bill that would require the Secretary of Social and Rehabilitation Service (SRS) to create and maintain (or contract with another party to do so) a child support debtor registry to be accessed by any lottery gaming facility manager (an entity the state contracts with to manage the state-owned casino) and any facility owner licensee (an entity licensed to construct or own a racetrack) for the purpose of offsetting any prize won at a state owned casino or winnings from parimutuel wagering. The managers' or owners' licensees will search the registry for any child support owed for persons winning \$1,200 or more. (Attachment 1)

Representative Anthony Brown, addressed the committee as the originator and supporter of this bill and spoke of the passion he has for the collection of delinquent child support. He stated improvement has been made through the passage of legislation and last year Kansas reported collection of an additional \$21 million. There is still room to strengthen the state's collection efforts, however, as Kansas continues to lag behind the national average with only 46 cents of every dollar awarded in child support actually being paid to the custodial parent. He urged the Committee to pass this bill quickly and on to the Senate for their vote yet this session.

(Attachment 2)

Representative Brown also presented a copy of a balloon amendment recommended by the SRS that would add some language to the new Section 2. (Attachment 3)

Mike Schuttloffel, Kansas Catholic Conference appeared before the committee in support of the bill and said they have long been supportive of efforts to improve the collection of child support in Kansas. He also stated that the Kansas collection rate stands at 56% which is 37th in the nation. He expressed confidence that this legislation would serve as a strong incentive for parents to maintain their court-ordered obligations to their

CONTINUATION SHEET

Minutes of the House Judiciary Committee at 3:30 p.m. on March 1, 2010, in Room 346-S of the Capitol.

children. (Attachment 4)

Clint Patty, an attorney with the law firm of Forbes & Frieden, also addressed the committee in support of the bill and understands the intent of the bill, but expressed reservations from a practical standpoint that the proposed legislation could be implemented as written. He stated their law firm represents Butler National Service Corporation (Butler) who is the manager under contract with the Kansas Lottery on behalf of the State of Kansas for the Lottery Gaming Facility in Dodge City, Kansas. He requested the committee to allow Butler and the Kansas Lottery time to study this issue and arrive at legislation that would address this important concern and then propose reasonable implementation methods to achieve the goals of the legislation. He expressed it is important to enact legislation that would ultimately assist in the recovery of unpaid child support. (Attachment 5)

There was much discussion regarding how the gaming facilities operate, the utilization of automated kiosk teller machines, and how winnings could be tracked and what dollar values are tracked at the present time for tax purposes. Chris Reedy, a representative of Butler National Service Corporation, assisted Mr. Patty in responding to questions regarding the physical workings of the casino, such as the automated kiosk teller machine, gaming tables, the "single play or single pull" rule, and explaining how the current requirements are handled for IRS purposes.

In response to questions, Chairman Kinzer asked Revisor of Statutes staff to prepare a balloon to add pari-mutual winnings to the bill before the committee is ready to work the bill. He also asked them to provide a copy of the Colorado law and the threshold amount of prizes or winnings used by their program.

Jamie Corkhill, staff attorney for the SRS child support program, addressed the committee at the request of Chairman Kinzer. She responded to a question from the committee by stating that 75 percent of the collections go to the families and this is similar to Colorado. She also stated that the "Title IV-D" includes all child support cases the SRS administers regardless of income. She explained that anyone can request their services, however, there is a small fee for those not receiving state financial assistance.

Written testimony was provided by April Holman, Kansas Action for Children, in support of the bill. (Attachment 6)

The hearing on **HB 2651** was closed.

The hearing on **SB 368 - Amending penalties for driving under the influence of alcohol or drugs** was opened.

Jill Wolters, office of Revisor of Statutes, provided the committee with an overview of the bill. She explained this bill reconciles **2009 HB 2096** and **SB 336** amendments, then adds the changes from HB 2096 that would become law July 1, 2010, if no change occurred, then makes it effective July 1, 2011. She reminded the committee that, in 2009, the DUI Commission was created to review DUI law and make recommendations concerning the law. In addition, the bill makes the penalties for the 4th and subsequent conviction apply to the 3rd conviction, and increased the 4th and subsequent conviction penalties to a minimum sentence of 180 days, allowing work release after 144 consecutive hours in jail and has no mandatory post-release supervision time with treatment.

She further explained the Senate floor amendment to **SB 368** deletes the current provisions requiring proof of ignition interlock which is what the law was until July 1, 2006. The provisions of the amendment would take effect upon publication in the Kansas register, with the increased penalties going into effect July 1, 2011. (Attachment 7)

Senator Mary Pilcher-Cook, addressed the committee in support of the bill as amended by the Senate and stated the statute came to her attention when a constituent contacted her who was required to show proof of installation of an interlocking device, but he did not have a car and was unable to purchase a car. She further questioned the law of why someone who is unable to buy a vehicle and carpools every day be forced to purchase a vehicle to follow the law, and, therefore believes the law as it stands today is a heavy and unreasonable burden to place on our citizens for them to comply with the law. (Attachment 8)

CONTINUATION SHEET

Minutes of the House Judiciary Committee at 3:30 p.m. on March 1, 2010, in Room 346-S of the Capitol.

Senator Marci Francisco appeared before the committee in support of the bill as it could be creating a difficult position for a small number of constituents by requiring them to have ignition interlock devices for a very specific period of time. At the same time, she is concerned that the amendment that was adopted by the senate eliminated altogether any requirement of proof of the installation and therefore presented an amendment which restores the language for Page 2, Lines 28 through 32 and Page 4, Lines 22 through 24 with the addition of adding two changes to the language so the restriction could apply to when they are able to own and drive a car. (Attachment 9)

Terry Heidner, Legislative Liason for the Kansas Department of Transportation provided testimony in opposition to amendments made by the Senate Committee of the Whole. He stated that providing proof of ignition interlock installation was added as a requirement a few years ago and language was necessary because so few individuals who were required to have an ignition interlock installed were actually having the devices installed. The amendment to this bill removes the requirements to provide proof of installation of the ignition interlock device and will make it easier for DUI offenders to circumvent the law and allow impaired drivers back on the road, putting all people on the road at risk. (Attachment 10)

Karen Wittman, Assistant Attorney General, addressed the committee in opposition of the Senate amendments to the bill. She advised she is on the DUI Commission and her focus at the Attorney General's Office is Traffic Safety Resource Prosecutor. She stated the DUI Commission is really focused on more extensive use of the ignition interlock and it seems odd that we are attempting to change something at the present time that may be changed once again in the next legislative session based on the findings of the DUI Commission. She also told the committee the Senate amendments to the bill are changing something that has little or no effect on the majority of the population and in doing so we are making the roads more dangerous. (Attachment 11)

Laura Dean-Mooney, National President of Mothers Against Drunk Drivers(MADD) addressed the committee in opposition and asked them to restore the proof of an ignition interlock installation requirement and also to require ignition interlocks for all first time convicted drunk drivers by inserting language from **House-Substitute for SB 95**. She advised the committee ignition interlocks can save money and end the taxpayer funded lifeline for drunk driving in Kansas. She also offered other ways to address an individual that does not have a vehicle. She told the committee that drunk drivers will continue to drive drunk and endanger the public unless we stop them. She stated MADD believes the DUI Study Commission will help make needed improvements to the drunk driving laws in Kansas, but the committee can help now by amending SB 368 to insert the proof of installation requirement and also require interlocks for all offenders. (Attachment 12)

Matt Strausz, President of Kansas Ignition Interlock Association and Smart Start of Kansas, spoke before the committee as an opponent and urged the committee members to remove the Senate amendment to this bill as that amendment is taking Kansas in the wrong direction. He also stressed to the committee that the ignition interlock program is not just a penalty but also acts as a behavior modification tool. He provided other information regarding other states that have passed or introduced legislation that requires the use of ignition interlock technology for all convicted drunk driving offenders. (Attachment 13)

He also provided some statistics for the years 2007, 2008 and 2009 in relation to the passage of **HB 2916 in 2006** to increase the compliance rates for DUI offenders restricted to install ignition interlocks. That goal has not only increased compliance on the ignition interlock law drastically, but has also caused the volume of violations of interlock restriction and violations of restriction charges to drop significantly. (Attachment 14)

Ed Klumpp, addressed the committee on behalf of Kansas Association of Chiefs of Police, the Kansas Sheriffs Association and the Kansas Peace Officers Association in opposition of the Senate amendments, however, they do support the original intent of this bill. That intent was to delay the implementation of section 6 of Chapter 107 of the 2009 Session Laws from July 1 to July 1, 2011 and the purpose of that delay is to allow the DUI Commission to complete its work and report to the 2011 Legislature prior to changing that law. He stated this would also avoid the potential for this law to change in 2010 only to change again in 2011. He advised there is no question ignition interlock devices save lives and prevent repeat offenses of drunk driving. (Attachment 15)

Mike Lindblad, Guardian Interlock Systems, provided written testimony in opposition of the Pilcher-Cook amendment to this bill. (Attachment 16)

CONTINUATION SHEET

Minutes of the House Judiciary Committee at 3:30 p.m. on March 1, 2010, in Room 346-S of the Capitol.

The hearing on **SB 368** was closed.

The next meeting is scheduled for March 2, 2010.

The meeting was adjourned at 5:25 p.m.

JUDICIARY COMMITTEE GUEST LIST

DATE: 3-1-10

NAME	REPRESENTING
Jamie Corkhill	SRS
Jill Martin	DOA
Jeremy Gentry	KIIL
Justin Hertach	KIIL
Jeff Bottenberg	Kansas Entertainment
KAREN WITTMAN	AG's office.
Ed Klumpp	KACP/KPWA/KSA
Levi Henry	Sandstone Group LLC
Kelly Beaman	KODR-DC
Terry Heidner	KDOT
Lindsey Douglas	KDOT
Rep Anthony R. Brown	38 th District
Joseph Miller	KS BAR ASSN
Chae Wais	Jud. Branch
Kevin Boree	Ks. Ign. Int. Assoc.
Matt Strausz	Ks Ign. Int Assoc.
Mike Umble	Guardian Ig. Int.
Tony Conroy	Kansas Ig.
Laura Deen-Mooney	M.A.D.P. nat. President.
Senator Marci Francisco	self

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MEMORANDUM

To: Chairman Kinzer and members of the House Committee on Judiciary
From: Jill Ann Wolters, Senior Assistant Revisor
Date: 1 March, 2010
Subject: HB 2651

HB 2651 would require the secretary of social and rehabilitation service (SRS) to create and maintain (or contract with another party to do so) a child support debtor registry to be accessed by any lottery gaming facility manager (an entity the state contracts with to manage the state owned casino) and any facility owner licensee (an entity licensed to construct or own a racetrack) for the purpose of offsetting any prize won at a state owned casino or winnings from parimutuel wagering. All lottery gaming facility managers and any facility owner licensees shall search the registry for any child support owed for persons winning \$1,200 or more.

The bill would allow SRS to disclose information concerning a title IV-D case if the debtor owes at least \$25 in past due support; require SRS, to the extent feasible, to provide secure electronic processes for disclosing information about child support debtors; and grant rules and regulations authority to SRS to administer this act.

Further, the bill allows the lottery gaming facility manager and any facility owner licensee to utilize the provisions of law concerning setoff against debtors of the state, K.S.A. 75-6201 et seq.

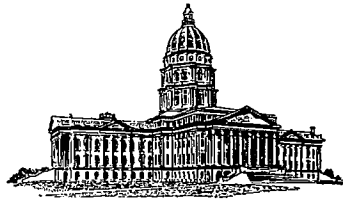
Finally, the bill amends two statutes to implement the provisions of the act. The act would take effect upon publication in the statute book, July 1, 2010.

House Judiciary
Date 3-01-10
Attachment # 1

STATE OF KANSAS

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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

CHAIRMAN: FINANCIAL INSTITUTIONS
MEMBER: FEDERAL AND STATE AFFAIRS
INSURANCE
TAXATION

TESTIMONY REGARDING HB 2651

I am Representative Anthony R. Brown, from the 38th House District. Thank you Chairman Kinzer and members of the Judiciary Committee for allowing me the opportunity to come before you to provide testimony regarding HB 2651.

Many of the members on the committee will remember the passion I have for the collection delinquent child support. Over the last several sessions, with the help of the SRS, Children's Advocacy Groups, and the Judiciary Committees in the House and Senate, we have been able to improve the collection of child support in Kansas.

One improvement was made through this committee's efforts and passage of legislation that limits a person's ability to acquire a state hunting and fishing licenses with outstanding child support due. Last year the state of Kansas reported collection of an additional \$21 million, in part, due to this previous legislation.

There is still room to strengthen the state's collection efforts, as Kansas continues to lag behind the national average with only 46 cents of every dollar awarded in Child Support actually being paid to the custodial parent.

I will briefly review the history of the request I made to the Revisors and some details in the bill.

- I. Bill request in Federal & State Affairs Committee
 - a. State Gaming Commission reviewed casino in Dodge City
 - b. Discovered that casino winnings not subject to child support instantly
 - i. Modeled after delinquent tax bill
 - ii. Commissioner said the Casino would welcome this effort
 - c. Commissioner stated state has the authority to enact this legislation under the agreement
- II. Bill was drafted in current form and referred to House Judiciary Committee
- III. Jackpot winnings were set at the federal model of \$1,200
- IV. Para mutual wagering is included

House Judiciary
Date 3-01-10
Attachment # 2

V. Provisions set in place for due process in Sec. 3

VI. Ask committee to clarify what level of arrearages

a. Bill states \$25 for Title IV-D cases

b. Other legislation passed recently included any case in excess of \$1000 in arrearages.

My hope is that we will work to pass this bill quickly from committee and on to the Senate for their vote yet this session.

Thank you for allowing me to testify on this important issue. I greatly appreciate all of your hard work on this issue now and in previous sessions.

I will now be happy to answer any questions you may have regarding HB 2651.

Presented by Rep. Anthony Brown

House Bill 2651 – amendment recommended by SRS

February 26, 2010

House Judiciary
Date 3-01-10
Attachment # 3

New Sec. 2. Any lottery gaming facility manager as defined by K.S.A. 74-8702, and amendments thereto, and any facility owner licensee as defined by K.S.A. 74-8802, and amendments thereto, ~~may utilize the provisions of K.S.A. 75-6201 et seq., and amendments thereto,~~ to insure child support debtors who win any prize or winning from parimutuel wagering valued at \$1,200 or more shall be subject to setoff of such child support debt.

shall have the duty

named in the child support debtor's registry created pursuant to section 1, and amendments thereto,

Any lottery gaming facility manager and any facility owner licensee may utilize the provisions of K.S.A. 75-6201 et seq., and amendments thereto. Such participation under the provisions of K.S.A. 75-6201 et seq., and amendments thereto, shall be limited to the collection of support debts.



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House Judiciary Committee

March 1, 2010

Testimony in Support of House Bill No. 2651

Michael Schuttloffel, Executive Director, Kansas Catholic Conference

Chairman Kinzer and members of the Committee, I appear before you today in support of HB 2651. HB 2651 would withhold gambling winnings from parents who are behind on their child support payments in the amount of what is past due.

The Kansas Catholic Conference has long been supportive of efforts to improve the collection of child support in Kansas. Kansas' collection rate stands at 56%, which is 37th in the nation. We have to do better and we can do better.

Past efforts by the Legislature in this regard have proven successful. It is believed that a law passed three years ago denying recreational licenses to individuals that owe back child support has resulted in the collection of \$44 million in child support that otherwise would not have been paid. Representative Anthony Brown was also the sponsor of that legislation, and we are grateful for his many efforts in this regard.

We are confident that this legislation will, if enacted, serve as a strong incentive for parents to maintain their court-ordered obligations to their children. Thank you for your consideration.

MOST REVEREND RONALD M. GILMORE, S.T.L., D.D.
DIOCESE OF DODGE CITY

MOST REVEREND MICHAEL O. JACKELS, S.T.D.
DIOCESE OF WICHITA

MOST REVEREND EUGENE J. GERBER, S.T.L., D.D.
BISHOP EMERITUS - DIOCESE OF WICHITA

MOST REVEREND JOSEPH F. NAUMANN, D.D.
Chairman of Board
ARCHDIOCESE OF KANSAS CITY IN KANSAS

MICHAEL M. SCHUTTLOFFEL
EXECUTIVE DIRECTOR

MOST REVEREND PAUL S. COAKLEY, S.T.L., D.D.

MOST ARCHBISHOP House Judiciary
Date 3-01-10
MOST F Attachment # 4
B

LAW OFFICES OF
FRIEDEN & FORBES

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

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**ALSO ADMITTED IN MISSOURI*

TESTIMONY BEFORE THE HOUSE JUDICIARY COMMITTEE
House Bill 2651

March 1, 2010

Mr. Chairman and members of the Committee, I am Clint Patty, an attorney with the law firm of Frieden & Forbes located in Topeka. Our firm represents Butler National Service Corporation (Butler) who is the manager under contract with the Kansas Lottery on behalf of the State of Kansas for the Lottery Gaming Facility in Dodge City, Kansas.

Butler supports and understands the intent of House Bill No. 2651. However, from a practical standpoint, the proposed legislation would be impossible to implement as written.

For example, the gaming facility utilizes an automated kiosk teller machine. Redemption takes place and the player departs the facility with cash and without the casino having been involved in the redemption. Finally, we have no way of tracking winnings as required by this proposed legislation.


We would ask the Committee to allow Butler and the Kansas Lottery time to study this issue and arrive at a legislation that would address this important concern. We would then propose reasonable implementation methods to achieve the goals of the legislation.

It's important to enact legislation that would ultimately assist in the recovery of unpaid child support.

Thank you for allowing me the opportunity to testify. I am pleased to answer any questions.

House Judiciary
Date 3-01-10
Attachment # 5

FISCAL FOCUS

Budget and Tax Policy in  spective

April Holman
Kansas Action for Children
WRITTEN TESTIMONY - House Bill 2651
House Judiciary Committee
March 1, 2010

Kansas Action for Children is a not-for-profit child advocacy organization founded in 1979. For more than 30 years, KAC has worked with lawmakers on policy solutions that improve the lives of Kansas children and their families.

We support House Bill 2651, which would strengthen current law as it relates to child support enforcement by making it easier for the state to collect on the child support debts of parents winning \$1,200 dollars or more in a lottery or in horse and dog races.

The Importance of Child Support

Child support is a critical source of support for many Kansas children growing up in single-parent households. As we look at ways to assist vulnerable Kansans with limited state and federal dollars, it is clear that child support is an effective and efficient support.

At the child development level, children whose noncustodial parents pay child support have more contact with them, potentially providing the children with emotional as well as financial support. Research indicates that children with parental contact have better grades, better test scores, fewer behavior problems, and they remain in school longer. Children living in single-parent homes with only one parent involved the child's life are at risk of a host of negative outcomes including being more likely: to experience health and behavioral problems, to become a teenage parent, to live in poverty, and to run away from home.

The Cost to the State of Child Support Non-Compliance

When custodial parents don't receive child support, often the result is a need for state and federal assistance such as TANF, food stamps and Medicare. In addition to these immediate costs, the state may incur increased juvenile and criminal court costs, special education costs and mental health costs associated with the financial and developmental impact of living in a single-parent household with only one involved parent.

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MEMORANDUM

To: Chairman Kinzer and members of the House Committee on Judiciary
From: Jill Ann Wolters, Senior Assistant Revisor
Date: 1 March, 2010
Subject: SB 368

Senate Bill No. 368 reconciles 2009 HB 2096 and SB 336 amendments, then adds the changes from HB 2096 that would become law July 1, 2010, if no change occurred, then makes it effective July 1, 2011. As you may recall, in 2009, the DUI Commission was created to review DUI law and make recommendations concerning the law. Further, the bill made the penalties for the 4th and subsequent conviction apply to the 3rd conviction, and increased the 4th and subsequent conviction penalties to a minimum sentence of 180 days, allowing work release after 144 consecutive hours in jail and has no mandatory post-release supervision time with treatment.

The Senate floor amendment deletes the current provisions requiring proof of ignition interlock. This is what the law was prior to July 1, 2006. The provisions of the amendment would take effect upon publication in the Kansas register.

The bill would take effect upon publication in the Kansas register, with the increased penalties going into effect July 1, 2011.

House Judiciary
Date 3-01-10
Attachment # 7



TOPEKA

SENATE

MARY PILCHER COOK

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Testimony by Senator Mary Pilcher Cook
House – **SB 368**
Monday, March 1, 2010

Thank you for the hearing on this legislation and the interlocking-device amendment, which was put on the bill on the Senate floor on February 10th and passed 38-1.

This statute came to my attention when a constituent contacted me who was required to show proof of installation of an interlocking device, but he didn't have a car and was unable to purchase a car. As you can see on page 2, line 28, and page 4, lines 15 and 22, the proof of installation of an interlocking device needs to be a full year before the person's driving privileges are fully reinstated.

After speaking with the Chief of Driver Control to establish this was an extensive problem, and after establishing in the statutes that a person caught driving without an interlocking device would receive a felony in any case, the rationale for proof of installation for an interlocking device escaped logic. Anyone would be able to receive the proof of installation, and still drive someone else's car. Why should someone who is unable to buy a vehicle and carpools every day be forced to purchase a vehicle to follow the law?

This committee may be able to come up with other solutions or methods to encourage the use of interlocking devices, but currently the law as it stands today is a heavy and unreasonable burden to place on our citizens for them to comply with the law. For this reason I support the amendment to the bill.

Thank you.

House Judiciary

Date 3-01-10Attachment # 8

STATE OF KANSAS



TOPEKA

SENATE CHAMBER

MARCI FRANCISCO
SENATOR, 2ND DISTRICT

DURING SESSION
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COMMITTEE ASSIGNMENTS
RANKING MINORITY MEMBER
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NATURAL RESOURCES
MEMBER
UTILITIES
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MEMBER, JOINT COMMITTEE
ARTS AND CULTURAL RESOURCES
LEGISLATIVE EDUCATIONAL PLANNING
STATE BUILDING CONSTRUCTION

2 March 2010

Lance Kinzer, Chair, and Members of the House Judiciary Committee:

Thank you very much for the opportunity to appear before you regarding Senate Bill 368, an act relating to driving under the influence of alcohol.

I passed on this bill in the Senate. Although I have not always owned a car or had a driver's license and understand the difficult position that we could be creating for a small number of our constituents by requiring them to have ignition interlock devices for a very specific period of time, I am concerned that the amendment that was adopted eliminated altogether any requirement for proof of the installation.

I am suggesting the wording that was stricken by the amendment be restored with two changes:

Page 2, Lines 28 through 32:

Whenever a person's driving privileges have been restricted to driving only a motor vehicle equipped with an ignition interlock device, proof of the installation of such device, for the entire restriction period, shall be provided to the division before the person's driving privileges are fully reinstated.

a period of time equal to

Page 4, Lines 22 through 24:

Proof of the installation of such device, for the full year of the restricted period, shall be provided to the division before the person's driving privileges are fully reinstated.

a full year after the suspension period

Thank you very much for your work and consideration of SB 368. I hope that you agree these changes would allow an individual some flexibility in determining when they are able to own and drive a car and not put them in a situation where if they couldn't meet the specific time frame they could never have their driving privileges reinstated without eliminating the requirement for them to have the ignition interlock device installed for a specific length of time.

marci francisco
Marci Francisco

House Judiciary

Date 3-01-10

Attachment # 9

**TESTIMONY BEFORE THE
HOUSE JUDICIARY COMMITTEE**

**REGARDING SENATE BILL 368
DUI, Ignition Interlock Requirements**

March 1, 2010

Mr. Chairman and Committee Members:

I am Terry Heidner, Legislative Liaison for the Kansas Department of Transportation, here to provide testimony in opposition to amendments made to Senate Bill 368. While KDOT supports the original bill, we oppose the amendments added by the Senate Committee of the Whole.

Providing proof of ignition interlock installation was added as a requirement a few years ago. The reason for this language was because so few individuals who were required to have an ignition interlock installed were actually having the devices installed. Those individuals who drive impaired put all people on the road at risk. One way to lower that risk was to require DUI offenders to have ignition interlocks installed on their vehicles to prevent them from driving if they had been drinking, and then ensure that they complied with the requirement by providing proof of installation.

The amendments remove the requirement to provide proof of installation of the ignition interlock device. This will make it easier for DUI offenders to circumvent the law. The amendments also delete this requirement in K.S.A. 8-1015(b), in which an individual placed on driving restrictions for a DUI, can request to be restricted to only driving a motor vehicle equipped with an ignition interlock in lieu of other more restrictive provisions. If someone is requesting to be required to only drive a vehicle with an ignition interlock, they should have no problem providing proof of installation.

The argument made in support of the amendment was that Kansas was forcing people to buy a car to comply with the ignition interlock provisions. However, the amendments do not address the concern. The law still requires ignition interlocks for DUI offenders regardless of whether they own a car. With the amendments, we are requiring the device without ensuring that the device is indeed installed in the vehicle they will be driving. The amendment merely creates a loophole that will allow DUI offenders to circumvent the law.

KDOT does not oppose different restrictions for those who do not own a car, but these amendments go too far. Requiring the offender to show proof of installation is necessary to enforce the requirement of the ignition interlock device.

I will gladly stand for questions at the appropriate time.



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TESTIMONY-SB 368

Good Afternoon, Mr. Chairman and Members of the Judiciary Committee.

My name is Karen Wittman. I am an Assistant Attorney General, the Attorney General Steve Six-designee on the DUI Commission. My focus at the AG's Office is Traffic Safety Resource Prosecutor.

1. The DUI commission is really focused on more extensive use of the ignition interlock. With that focus we are looking to tie the ignition interlock to the license not the vehicle. So a person operating any vehicle if they have the restriction of ignition interlock would have to have it installed in any car they operate...whether they own it or not. One of the things that has been suggested with the current law is "we are forcing people to purchase a vehicle"...this law does not fix that problem only eliminates the ability of the state to determine if someone has interlock or not...there is NO check.

2. It seems odd that we are attempting to change something at the present time that may be changed once again in the next legislative session based on the findings of the DUI Commission. The original bill did exactly what the DUI commission suggested...do not put the penalty sections that were sanctioned in the last legislative session ...so that we are not fixing something again when the DUI Commission final proposals are made. We may be put in that exact position with this amendment to the bill.

3. The bill indicates that a person does not have to provide proof of installation of the device. This is the VERY problem that we have at the present time. If a person is required to have it and there is no check or balance to insure they have it..Then what is the point of the law. This device is supposed to save us from persons that continue to drink and then drive. Without some type of check the dangerous driver will drive without the benefit of this device. The DUI commission is looking to have possible graduated sanction for someone that cannot show the automobiles they drive have the device. Please see the DUI Commissions Interim Report pages 1-6, and 1-16. The DUI Commission is looking at sanctions that would require longer suspension and also impoundment of vehicles. This law does not take that into account and would have to be "fixed" with DUI Commission recommendations.

4. As noted above, "we are making people buy a car". How many individuals does this actual affect? The person has proven access to a vehicle because they got a DUI to require this provision to begin with. We are changing something that has little or no effect on the majority of the population and in doing so we are making the roads more dangerous.

House Judiciary
Date 3-01-10
Attachment # 11



MADD
Activism | Victim Services | Education

**CAMPAIGN TO
ELIMINATE
DRUNK DRIVING**

**Laura Dean-Mooney
National President
Mothers Against Drunk Driving
Before the House Judiciary Committee
Testimony Regarding SB 368 and Ignition Interlocks
1 March 2010**

Introduction

My name is Laura Dean-Mooney, National President of Mothers Against Drunk Driving. Mr. Chairman and Members of the Committee, thank you for the opportunity to submit testimony today regarding Senate Bill 368.

MADD respectfully requests for this committee to amend Senate Bill 368. First, to restore the proof of installation requirement with the state for those ordered on an interlock. Secondly, to require ignition interlocks for all first time convicted drunk drivers by inserting language from House-Substitute for SB 95. With these amendments, MADD believes the House Judiciary Committee would be taking significant steps to protect public safety and help greatly to prevent drunk driving.

MADD is pleased with the discussions of reform in the Kansas DUI study Commission and hopes that the commission makes recommendations to reform the DUI law in Kansas for the 2011 session.

In the meantime, MADD urges this committee to consider making changes to immediately make a difference to save lives, prevent drunk driving and curb the epidemic of drunk driving crippling Kansas. This can be done by inserting language from H Sub for SB 95 into the bill up for consideration today.

The Campaign to Eliminate Drunk Driving

MADD feels strongly about amending SB 368 to include the lifesaving requirement of interlocks for first time offenders because MADD believes that drunk driving can be eliminated. Just over

three years ago, Mothers Against Drunk Driving began the Campaign to Eliminate Drunk Driving. The Campaign is comprised of four prongs:

- Intensive highly-visible law enforcement activities such as sobriety checkpoints or saturation patrols in all 50 states,
- Full implementation of current alcohol ignition interlock technologies for all first time convicted drunk drivers to stop the revolving door of repeat offenders and to serve as a deterrent to potential drunk drivers.
- Support of advanced vehicle technologies that passively detect if a driver has an illegal BAC of .08 or greater. These technologies must be moderately priced, absolutely reliable, set at the illegal BAC limit of .08 and unobtrusive to the sober driver, and;
- Building grassroots support to eliminate drunk driving once and for all.

The Campaign to Eliminate Drunk Driving is moving forward throughout the United States. Prior to the Campaign launching in 2006, only, New Mexico, had a law requiring ignition interlocks for all first time convicted drunk drivers. Now, twelve states including Nebraska and Colorado have laws requiring or highly incentivizing interlock usage by all first time convicted DUI offenders.ⁱ MADD's support of ignition interlocks for all first time convicted drunk drivers is simple—it is about saving lives. MADD believes Kansas can become a leader in the fight against drunk driving by amending SB 368 to require ignition interlocks for all convicted drunk drivers existing in H Sub for SB 95.

These devices are needed for all convicted drunk drivers for many reasons. They are needed to help prevent future incidences of drunk driving. Interlocks for convicted DUI offenders are needed to bring a message of deterrence to a potential drunk driver—drive drunk and as a result receive an interlock on the vehicle you operate until you prove through compliance that you will not drive drunk and violate the public's trust.

Some may argue that requiring ignition interlocks for first time offenders is too harsh. This is not the case. We know first time offenders have driven drunk before—the most conservative study showed an average of 87 times before the first arrest.ⁱⁱ

The Effectiveness of Ignition Interlocks

Since New Mexico was the first state to require ignition interlocks for all first time convicted drunk drivers, New Mexico has the most data on the effectiveness of taking such a step against drunk driving. The results are lifesaving. In New Mexico, drunk driving re-arrests statewide are down by 37 percent, alcohol involved crashes down by 31 percent, alcohol related injuries down by 39 percent and alcohol related fatalities down by 35 percent.ⁱⁱⁱ In Arizona, which enacted an all offender interlock law in 2007, drunk driving deaths have decreased by 33 percent.

End the Kansas Subsidy for Drunk Driving

SB 368 should be amended with the language from H Sub for SB 95. Doing so will help save lives but also help stop the Kansas subsidy of drunk driving. Ignition interlocks can save money and end the taxpayer funded lifeline for drunk driving in Kansas. A study of New Mexico's interlock program found the cost of an interlock was \$2.25 a day for the offender but for every dollar invested in an interlock for a first time offender, the public saves three dollars.^{iv}

Drunk driving remains a threat to public safety in Kansas. In 2008, 131 people were killed in alcohol related crashes in Kansas. Kansas was one a small minority of states to see an increase in drunk driving deaths from 2007 to 2008. From 1998 to 2008, 1,191 people were killed in alcohol related crashes. In that same time period, 24,728 people were injured in alcohol related crashes. The conservative economic cost of a decade of preventable deaths and injuries to residents in Kansas is estimated at \$2.5 billion. These costs do not include quality of life losses. These figures do not include the immeasurable and unthinkable toll of losing a loved one in a drunk driving crash.^{v,vi,vii} This is a pain I know all too well.

With SB 368, as currently worded, lifting the requirement of offenders proving to the state they have an interlock installed, an offender now will be less apt to comply with the law. MADD understands SB 368 was not intended to weaken and put at risk the lives and safety of Kansas residents. Rather, part of the bill was aimed at fixing a rare loophole with those who claim not to own or operate a vehicle after a drunk driving conviction. There are multiple ways to address this very rare case. Here are some suggestions of language to be added into SB 368 and H Sub for SB 95 for an offender claiming not to own or operate a vehicle:

- 1) The offender must sign a waiver with the Court or DMV that he or she has no access or does own, lease or operate a vehicle and will not drive for the period of time ordered on an interlock. If the person is caught driving during the revocation time without an interlock equipped vehicle, the person would be charged with a felony; and
- 2) Require the person to use an alcohol monitoring device that is not associated with a vehicle. Either a SCRAM ankle bracelet or an in home monitoring device. Similar to what is done with an interlock, the information of the person's sobriety would be submitted to a state agency; and
- 3) Allow for an offender who opts to not install an interlock to apply for an ignition interlock restricted license at any time providing that person plans to operate a vehicle equipped with an ignition interlock device.

MADD strongly encourages this committee to amend SB 368 and H Sub for SB 95 to put a proof of installation requirement for those ordered on an interlock. Without this requirement in place, the livelihood and public safety of Kansas residents is at risk as less offenders will comply with the law.

Kansas Needs to Improve on their Interlock Law

Currently in Kansas, interlocks are required for those offenders with a BAC of .15 or greater. Some may argue Kansas interlock law needs to remain as is. Doing so would be a celebration of the status quo, which with Kansas witnessing an increase in drunk driving deaths from 2007 to 2008, MADD believes is unacceptable. By inserting H Sub for SB 95 into SB 368, Kansas will break away from the status quo and move forward to saving more lives and preventing drunk driving.

Some may have concerns that H Sub for SB 95 may be weak on crime as in many cases it provides for less hard license suspension before being restricted to drive a vehicle equipped with an interlock. That is not the case. MADD supports a shorter hard license suspension period because drivers continue to drive even though their license is suspended—about 75 percent of offenders drive on a suspended license.^{viii}

Why Amend SB 368 to Require Ignition Interlocks for All Convicted Drunk Drivers?

Interlocks work for both society and for the offender—it allows convicted offenders a mobility they would not have with a license suspension or jail time, while keeping the public safe.

Drunk drivers will continue to drive drunk and endanger the public unless we stop them. Requiring ignition interlocks for all first time convicted drunk drivers will help to end drunk driving. Again, MADD's support of ignition interlocks for all convicted drunk drivers is simple--it is about saving lives and preventing injuries..

Conclusion

MADD believes that DUI Study Commission will help make needed improvements to the drunk driving law in Kansas. But with the help of this committee, amending SB 368 to insert the proof of installation requirement and also to require interlocks for all offenders, immediate and necessary action can be taken to help address the epidemic of drunk driving. Right now, Kansas lawmakers have the opportunity to stand up for the rights of victims of the violent crime of drunk driving. Right now, Kansas lawmakers can send a message that drunk driving at the illegal level of .08 is not tolerable. Right now, Kansas lawmakers can send a message of deterrence to anyone considering drunk driving. The message—violate the public trust by driving drunk and you will receive an ignition interlock that will have to stay on for at least a year of compliance.

Thank you.

ⁱ New Mexico, Arizona, Louisiana, Illinois, Washington, Nebraska, Alaska, Colorado, Arkansas, Utah, Hawaii, New York

ⁱⁱ Zador, Paul, Sheila Krawchuk, and B. Moore (1997) "Drinking and Driving Trips, Stops by Police, and Arrests: Analysis of the 1995 National Survey of Drinking and Driving Attitudes and Behavior," Rockville, MD: Estat, Inc. 1997.

ⁱⁱⁱ Roth, Richard. Ignition Interlocks and Drunk Driving PowerPoint Presentation. August 25, 2009

^{iv} Roth, Richard, Voas, Robert and Marques, Paul (2007) 'Interlocks for First Offenders: Effective?', Traffic Injury Prevention, 8:4, 346 – 352 URL: <http://dx.doi.org/10.1080/15389580701598559>

^v Kansas Department of Transportation. 2008 Kansas Traffic Accident Facts. Alcohol Related Accidents <http://www.ksdot.org/burTransPlan/prodinfo/2008factsbook/Alcohol.pdf>

^{vii} National Highway Traffic Safety Administration. Impaired Driving in Kansas. http://www.nhtsa.dot.gov/people/injury/alcohol/impaired_driving_pg2/MD.htm

^{viii} Peck, R.C., Wilson, R. J., and Sutton, L. 1995. "Driver license strategies for controlling the persistent DUI offender, Strategies for Dealing with the intent Drinking Driver." Transportation Research Board, Transportation Research Circular No. 437. Washington, D.C. National Research Council: 48-49.

Beck, KH, et al. "Effects of Ignition Interlock License Restrictions on Drivers with Multiple Alcohol Offenses: A Randomized Trial in Maryland." American Journal of Public Health, 89 vol. 11 (1999): 1696-1700.

KANSAS IGNITION INTERLOCK ASSN.

March 1, 2010

House Judiciary Committee

RE: Testimony in OPPOSITION to SB368

Thank you Mr. Chairman, members of the committee, for allowing me the opportunity to testify in front of you today in opposition of amendments to SB368. SB368, as amended by the Senate weakens Kansas DUI laws.

My name is Matt Strausz and I am the president of the Kansas Ignition Interlock Association, and Smart Start of Kansas. Smart Start of Kansas has been installing and servicing ignition interlock devices since 2002. Our association brings 30 plus years of experience in the interlock industry, and has seen many changes along the way.

While I make my living working with ignition interlock, I also am a firm believer in the cause. In 2002 my life was altered because of the needless deaths associated with drinking and driving. Each year hundreds in Kansas and thousands across the United States are needlessly killed by drunk drivers. Technology exists that can save many of these lives, but the ignition interlock cannot prevent drunk driving if we do not get them installed on the vehicles of the offenders.

In the past eight years of installing and servicing thousands of clients on the ignition interlock program we have realized that they are not just a penalty. Interlocks also act as a behavior modification tool. Many clients make comments within the first couple of months that they are learning how long they must wait after drinking before they are "ok" to be back behind the wheel. The ignition interlock is training the individuals how their body actually processes alcohol, and how long it can really take. While many are surprised that they are still not able to drive the next morning after a night of drinking, it is something that over the course of time they can use to learn how their body processes alcohol.

Our legislature, along with NHTSA, MADD, KIIA, the Kansas DUI Commission and many more all agree that ignition interlocks are a life saving tool. This life saving tool has done some extremely impressive things when implemented correctly. In New Mexico and Arizona, which have both enacted an ignition interlock sanction for all convicted drunk drivers, they have seen a 35% and 33% reduction in alcohol related fatalities respectively. While all these statistics show signs that ignition interlock reduce drunk driving and the heart breaking deaths that they cause, these numbers can only be achieved if we actually get the ignition interlocks on the vehicles of the convicted drunk drivers.

SB 368 as amended by the Senate, takes Kansas in the wrong direction. SB368 now removes language that requires an offender to prove that they have complied with the law prior to regaining and unrestricted driver's license. This language is meant to allow someone claiming to not have a vehicle to wait out their restriction period to avoid having the interlock device. This effectively gives anyone, whether they own a vehicle or not, the ability to not comply with the law and continue to drive without the public safety that is assured with an ignition interlock

House Judiciary

Date 3-01-10

Attachment # 13

How do we know they will do this? Since the passage of HB 2916 in 2006 we have seen compliance numbers increase from around 11% to just under 40% compliance. This growth in compliance is far from leveling off and will continue to grow as public awareness continues to increase. HB 2916 added the provision requiring that anyone required to have ignition interlock, because of an alcohol related offense, show proof they complied before regaining an unrestricted license. This language that increased compliance rates by 4 fold, has also at the same time reduced the amount of violations of restriction by almost 50%. This is the same language that SB 368 is trying to remove.

Currently Kansas requires ignition interlock for someone who has repeatedly drove drunk or has drove drunk and recorded a BrAC level of nearly twice the legal limit or higher. But in the event that these individuals do not have a vehicle to have an interlock installed on NHTSA offers suggestions on how they think state can address this issue. One such solution is to offer offenders with no vehicle to serve out their restriction time under house arrest, or while on an alcohol sensing ankle bracelet such as "SCRAM".

Other states such as New Mexico and Kentucky have legislation under consideration that offer home alcohol monitoring or "SCRAM" type devices as alternatives for people who have no vehicle. This allows someone with no vehicle to serve out their restriction time while still being monitored. This would eliminate someone who does not have a vehicle from receiving a lighter penalty. Increasing penalties for driving a vehicle without an interlock during this period to a felony has also been a suggestion.

SB 368 as amended will revert us to a point where offenders are not required to comply with the law, and has no provision to prove that an offender actually does not have a vehicle. Offenders would not even have to request for this, SB 368 would effectively assume that everyone required to have ignition interlock does not have a vehicle. This would be a tough assumption as in many cases this comes from an offender who has had a vehicle, or one available to them, for multiple DUI convictions. We cannot leave public safety in the hands of those who have chosen to compromise it.

There are 25 states with legislation under consideration to significantly expand their use of interlocks, either with all offenders or at least all repeat offenders and high BAC. There are 5 states that have expansion laws coming into effect in 2010 and only 1 state, Kansas, that has legislation under consideration to roll-back or weaken DUI laws.

The recent NHTSA publication shows multiple studies that when ignition interlock is required on 1st offenders it reduces recidivism. Results of similar legislation in other states have shown reductions in alcohol related fatalities, of which Kansas had 131 of in 2008. That kind of reduction in Kansas alcohol related fatalities would mean 45 lives saved.

A study by the Centers for Disease Control (CDC) found that re-arrest rates decrease by 73 percent when an ignition interlock device was installed. It also found that drivers with ignition interlock devices have far fewer alcohol-related crashes than those drivers with just a suspended license. The Insurance Institute for Highway Safety found that fatalities dropped by 30 percent for convicted drivers with an ignition interlock.

Congress has introduced legislation that requires the use of ignition interlock technology for all convicted drunk driving offenders. Thirteen states currently have laws that require ignition

interlock for all drunken driving offenders, Alaska, Arkansas, California (limited), Colorado, Hawaii, Illinois, Louisiana, New Mexico, New York, Arizona, Utah, Nebraska, and Washington.

Once again I would like to thank you Mr. Chairman and committee members for the opportunity to present testimony today. I would like to urge you to remove the Senate amendment to SB368, as I believe putting public safety in the hands of those who have chosen to compromise it is a step in the wrong direction.

Best,

Matt Strausz

Matt Strausz, President - KIIA

Negative effects of a change to "Proof of Installation/Proof of Removal" for Ignition Interlock Devices with SB 368

*Date used in this document provided by Kansas DMV.

HB2916 was passed in 2006 (on a vote of 122-0, 4/28/06) to increase the compliance rates for DUI offenders restricted to install ignition interlocks. Compliance rates on the interlock program were very low at that time, and in the years past. HB2916 was passed to help increase compliance rates, while reducing the amount of Driving on Suspended charges and driving in violation of restriction to interlock. The goal of HB2916 has not only increased compliance on the ignition interlock law drastically but has also caused the amount of violation of interlock restriction and violation of restriction charges to drop VERY significantly.

	Ignition Interlock Notices Issued	Interlock Installed	Compliance Rate
2007	1980	305	15.40%
2008	2873	319	11.10%
2009	6361	2420	38.04%

26.94% Increase in compliance of ignition interlock law from 2008, when required by law to do so. These increases were delayed because an offender must serve a suspension period. These statistics should continue to increase over the coming years as well. These numbers continue to rise as public knowledge of the law increases.

There are two ways people are charged when operating without an interlock. One is "In Violation of interlock" and two is "Violation of Restriction"

	Violation of Interlock	% of Notices Issued
2007	25	1.26%
2008	24	0.84%
2009	31	0.49%

77% reduction in Violations of Ignition Interlock.

	Violation of Restriction	% of Notices Issued
2007	1176	59.39%
2008	738	25.69%
2009	619	9.73%

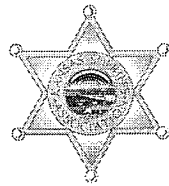
A 49.66% reduction in violations.

The "proof of installation/proof of removal" piece of HB2916 was added to keep unlicensed, uninsured drivers off the road. Statistics show that up to 75% of suspended driver's continue to drive. HB2916 is accomplishing the tasks it was meant for by increasing compliance rates with the law, and decreasing violations and offenders driving illegally while unlicensed and uninsured. Removal of this piece will increase noncompliance, and put repeat DUI offenders back on the the road without a device to insure public safety. While there are times where vehicles and/or interlocks are not available there are other solutions that can be explored.



**Kansas Association of
Chiefs of Police**

PO Box 780603
Wichita, KS 67278
(316)733-7301



**Kansas Sheriffs
Association**

PO Box 1853
Salina, KS 67402
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**Kansas Peace Officers
Association**

PO Box 2592
Wichita, KS 67201
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March 1, 2010

**Testimony to the House Judiciary Committee
In Opposition to SB368**

Mr. Chairman and committee members,

The Kansas Association of Chiefs of Police, the Kansas Sheriffs Association, and the Kansas Peace Officers Association support the original intent of this bill. That intent was to delay the implementation of section 6 of Chapter 107 of the 2009 Session Laws from July 1, 2010 to July 1, 2011. These are provisions passed last year in HB2096. The purpose of that delay is to allow the DUI Commission to complete its work and report to the 2011 Legislature prior to changing that law. This would avoid the potential for this law to change in 2010 only to change again in 2011.

However, the Senate Judiciary Committee chose to use this bill as a vehicle to attempt to fix an issue with interlock devices. It is this change that makes this bill in its current form unacceptable to us and brings us to oppose the bill. As we understand it, the situation this provision is attempting to fix has to do with the interlock verification process that is complicated when a person is under the interlock requirement and moves to another state that either does not have interlocks or does not have the ability to verify the interlock installation throughout the required period. While this is an issue that needs to be addressed as a policy matter for the legislature, the proposed fix goes too far the other way and swaps one problem for another resulting in reduced public safety. Under the current bill provisions the interlock verification process is simply removed for all persons required to have an interlock device. The answer we need is something in between that maintains the verification requirement when possible, especially for those residing in Kansas, but provides for a solution for those legitimately moving to another state where it is not possible to comply with verification.

There is no question ignition interlock devices save lives and prevent repeat offenses of drunk driving. The verification process is a very necessary procedure to assure compliance by those convicted of DUI's. Without verification, we will only learn of those who don't comply with the interlock device at the scene of their next crash or their next stop, very possibly another DUI. We strongly recommend either a more directed response to the problem be adopted or remove sections 1 and 2 from the bill and refer the matter to the DUI commission to resolve in their 2011 recommendations to the legislature.

We support extending the implementation of section 6 of Chapter 107 of the 2009 Session Laws as provided in section 3 of the bill. We strongly oppose the provisions in sections 1 and 2 striking lines 28-32 on page 2, striking language on lines 15 and 16 on page 4 and striking language on lines 22-24 on page 4.

Ed Klumpp
Legislative Liaison
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House Judiciary
Date 3-01-10
Attachment # 15



**GUARDIAN
INTERLOCK
SYSTEMS**

Honorable Members of the House Judiciary Committee

Dear members,

I would like to respectfully urge you not approve the Pilcher-Cook amendment to SB 368 that would eliminate the proof of installation and removal for persons required to operate their vehicle with an ignition interlock device.

With the passage of HB2916 in 2006 compliance rates for interlock usage have increased from 15.4% in 2007 to 38.04% in 2009. Statistics show that 75% of suspended drivers continue to drive during their suspension and the same will occur if proof of ignition interlock installation and removal is not required. The passage of the provisions in HB2916 are insuring that offenders with DUIs are complying with the law at a much higher rate than before and this should only improve as we go forward..

Removal of this piece of the law will put repeat DUI offenders back on the road without a device to insure that the public is protected. Please vote no with respect to this change.

Respectfully,
Mike Lindblad
Guardian Interlock Kansas

House Judiciary
Date 3-01-10
Attachment # 16