

**TESTIMONY BEFORE THE
HOUSE TRANSPORTATION COMMITTEE**

**REGARDING HOUSE BILL 2289
RELATING TO DRIVERS LICENSE SUSPENSIONS**

January 14, 2016

Mr. Chairman and Committee Members:

The Kansas Department of Transportation (KDOT) is providing written testimony in opposition of House Bill 2289, which proposes to modify the law with regard to the ability of law enforcement to request drivers to take a DUI test.

Impaired driving is preventable and driving under the influence of alcohol or drugs is not a victimless crime. According to KDOT crash statistics between 2009 and 2013, 718 people lost their lives in Kansas in impaired driving crashes. During this same time period, an additional 8,898 people in Kansas were injured in impaired driving crashes. Working to combat this problem requires a multi-disciplined approach and involves many local and state agencies.

Driving in this state is legally considered a privilege and not a right. That said, under existing law a driver cannot be subjected to a DUI test or arrested for a DUI without cause. A law enforcement officer must have reasonable grounds to believe a driver is under the influence and reasonable belief they were operating a vehicle in an impaired condition before testing the individual for impairment. However there are no restrictions on why the vehicle was stopped or why the encounter with the driver occurred. **The proposed changes to K.S.A. 8-1002 will effectively eliminate law enforcement's ability to subject a driver to a DUI test unless the vehicle was stopped, or prior to the encounter with the driver, the officer "had reasonable grounds to suspect the person was committing or had committed a crime or traffic infraction, or was involved in an accident resulting in property damage or injury."** The effect of this proposed change is to eliminate the ability of law enforcement to utilize sobriety checklanes or checkpoints as a measure to reduce incidents of impaired driving. It would also prevent DUI tests from being administered during voluntary encounters or anonymous tip stops.

Changing driver behavior can effectively be accomplished through education, enforcement and reporting. A sobriety checkpoint provides all of these attributes by publicizing the event, enforcing the laws, and then reporting on the results of the event. According to the National Highway Traffic Safety Administration (NHTSA), sobriety checklanes and/or sobriety checkpoints are one of the most effective countermeasures to combat impaired driving. The underlying premise for sobriety checklanes is that vehicles and drivers are selected at random based upon the criteria established for the event. Not being able to stop vehicles during such events unless they were observed committing a crime or traffic infraction would completely undermine the purpose and proven effectiveness of these enforcement measures. This same argument certainly also applies to voluntary encounters and anonymous tip stops.

The bill also provides that during administrative driver's license revocation or suspension hearings, whether law enforcement had the requisite grounds to make the vehicle stop prior to administering the DUI test becomes a factual determination the hearing officer must make. If this bill is passed, it can be anticipated with near-certainty that much time will be spent at every hearing debating whether the officer, in fact, met the statutory requirement for having the initial encounter with the driver. The suspension or revocation of a driver's license for driving while impaired is a highly effective countermeasure in combating impaired driving. License suspension or revocation protects the driving public by removing impaired drivers from the road for a period of time. However, suspension or revocation is not automatic. The administrative hearing process is designed to provide the driver with the ability to challenge the license revocation or suspension. Having the reason for the encounter with the driver become a point of factual dispute during the hearing process will hamper the administrative license adjudication process and undoubtedly will result in fewer offenders held accountable for impaired driving.

The Kansas DUI Commission met for two years and worked diligently to provide clarity and fairness to the DUI laws in the state. The Commission was comprised of legislators, law enforcement personnel, the department of motor vehicles, transportation professionals, court personnel, prosecutors, defense attorneys and public safety advocates. Their work has led to many enhancements to the DUI laws and has resulted in improved public safety for everyone.

Requiring the officer to have specific reasons for a vehicle stop, and then to articulate those reasons in the DUI certification, as proposed in House Bill 2289, will hinder law enforcement's authority to identify those that continue to drive while impaired, and will reduce the ability to enforce sanctions against impaired drivers, thus endangering the driving public.