

SENATE BILL No. 476

By Committee on Transportation

2-7

1 AN ACT concerning traffic regulations; creating a crime for operating a
2 motor vehicle at a speed of 100 miles per hour or more and providing a
3 penalty therefor; amending K.S.A. 8-255 and 8-2116 and repealing the
4 existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) Any person who operates a motor vehicle at a
8 speed of 100 miles per hour or more, except as provided in K.S.A. 8-1506,
9 and amendments thereto, is guilty of excessive speeding.

10 (b) ***The penalties provided in this section shall be in addition to the***
11 ***penalties provided in K.S.A. 8-1558 through 8-1560b, and amendments***
12 ***thereto.***

13 (c) Upon a first conviction of a violation of this section, a person shall
14 be restricted in driving for only the circumstances provided in subsection
15 ~~(e)~~ (f) for 15 days after the conviction.

16 ~~(e)~~(d) Upon a second conviction of a violation of this section within
17 three years after a prior conviction, a person shall be restricted in driving
18 for only the circumstances provided in subsection ~~(e)~~ (f) for 30 days after
19 the conviction.

20 ~~(d)~~(e) Upon a third conviction of a violation of this section within
21 three years after a prior conviction, a person's driving privileges shall be
22 suspended pursuant to K.S.A. 8-255, and amendments thereto.

23 ~~(e)~~(f) A person's driving privileges restricted pursuant to this section
24 shall be restricted to driving only under the following circumstances:

25 (1) In going to or returning from the person's place of employment or
26 schooling;

27 (2) in the course of the person's employment;

28 (3) in going to or returning from an appointment with a healthcare
29 provider or during a medical emergency; and

30 (4) in going to and returning from probation or parole meetings, drug
31 or alcohol counseling or any place the person is required to go by a court.

32 ~~(f)~~(g) A person operating a motor vehicle in violation of restrictions
33 provided in this section shall be guilty of operating a vehicle in violation
34 of restrictions as provided in K.S.A. 8-291, and amendments thereto.

35 Sec. 2. K.S.A. 8-255 is hereby amended to read as follows: 8-255. (a)
36 The division is authorized to restrict, suspend or revoke a person's driving

1 privileges upon a showing by its records or other sufficient evidence the
2 person:

3 (1) Has been convicted with such frequency of serious offenses
4 against traffic regulations governing the movement of vehicles as to
5 indicate a disrespect for traffic laws and a disregard for the safety of other
6 persons on the highways;

7 (2) has been convicted of three or more moving traffic violations
8 committed on separate occasions within a 12-month period;

9 (3) is incompetent to drive a motor vehicle;

10 (4) has been convicted of a moving traffic violation, committed at a
11 time when the person's driving privileges were restricted, suspended or
12 revoked; or

13 (5) is a member of the armed forces of the United States stationed at a
14 military installation located in the state of Kansas, and the authorities of
15 the military establishment certify that such person's on-base driving
16 privileges have been suspended, by action of the proper military
17 authorities, for violating the rules and regulations of the military
18 installation governing the movement of vehicular traffic or for any other
19 reason relating to the person's inability to exercise ordinary and reasonable
20 control in the operation of a motor vehicle.

21 (b) (1) The division shall:

22 (A) Suspend a person's driving privileges:

23 (i) When required by K.S.A. 8-262, 8-1014 or 41-727, and
24 amendments thereto;

25 (ii) upon a person's second conviction of theft, as defined in
26 ~~subsection (a)(5) of K.S.A. 21-5801(a)(5)~~, and amendments thereto, for
27 six months; ~~and~~

28 (iii) upon a person's third or subsequent conviction of theft, as
29 defined in ~~subsection (a)(5) of K.S.A. 21-5801(a)(5)~~, and amendments
30 thereto, for one year; *and*

31 (iv) *upon a person's third or subsequent conviction within three years*
32 *after a prior conviction for operating a vehicle at a speed of 100 miles per*
33 *hour or more, as provided in section 1, and amendments thereto, for 30*
34 *days;*

35 (B) disqualify a person's privilege to drive commercial motor vehicles
36 when required by K.S.A. 8-2, 142, and amendments thereto; and

37 (C) restrict a person's driving privileges when required by K.S.A. 39-
38 7, 155, and amendments thereto.

39 (2) As used in this subsection, "conviction" means a final conviction
40 without regard to whether the sentence was suspended or probation
41 granted after such conviction. Forfeiture of bail, bond or collateral
42 deposited to secure a defendant's appearance in court, which forfeiture has
43 not been vacated, shall be equivalent to a conviction. "Conviction"

1 includes being convicted of a violation of K.S.A. 21-3765, prior to its
2 repeal, or ~~subsection (a)(5) of K.S.A. 21-5801(a)(5)~~, and amendments
3 thereto.

4 (c) When the action by the division restricting, suspending, revoking
5 or disqualifying a person's driving privileges is based upon a report of a
6 conviction or convictions from a convicting court, the person may not
7 request a hearing but, within 30 days after notice of restriction, suspension,
8 revocation or disqualification is mailed, may submit a written request for
9 administrative review and provide evidence to the division to show the
10 person whose driving privileges have been restricted, suspended, revoked
11 or disqualified by the division was not convicted of the offense upon
12 which the restriction, suspension, revocation or disqualification is based.
13 Within 30 days of its receipt of the request for administrative review, the
14 division shall notify the person whether the restriction, suspension,
15 revocation or disqualification has been affirmed or set aside. The request
16 for administrative review shall not stay any action taken by the division.

17 (d) Upon restricting, suspending, revoking or disqualifying the
18 driving privileges of any person as authorized by this act, the division shall
19 immediately notify the person in writing. Except as provided by K.S.A. 8-
20 1002 and 8-2,145, and amendments thereto, and subsections (c) and (g), if
21 the person makes a written request for hearing within 30 days after such
22 notice of restriction, suspension or revocation is mailed, the division shall
23 afford the person an opportunity for a hearing as early as practical not
24 sooner than five days nor more than 30 days after such request is mailed. If
25 the division has not revoked or suspended the person's driving privileges
26 or vehicle registration prior to the hearing, the hearing may be held within
27 not to exceed 45 days. Except as provided by K.S.A. 8-1002 and 8-2,145,
28 and amendments thereto, the hearing shall be held in the person's county of
29 residence or a county adjacent thereto, unless the division and the person
30 agree that the hearing may be held in some other county. Upon the hearing,
31 the director or the director's duly authorized agent may administer oaths
32 and may issue subpoenas for the attendance of witnesses and the
33 production of relevant books and papers and may require an examination
34 or reexamination of the person. When the action proposed or taken by the
35 division is authorized but not required, the division, upon the hearing, shall
36 either rescind or affirm its order of restriction, suspension or revocation or,
37 good cause appearing therefor, extend the restriction or suspension of the
38 person's driving privileges, modify the terms of the restriction or
39 suspension or revoke the person's driving privileges. When the action
40 proposed or taken by the division is required, the division, upon the
41 hearing, shall either affirm its order of restriction, suspension, revocation
42 or disqualification, or, good cause appearing therefor, dismiss the
43 administrative action. If the person fails to request a hearing within the

1 time prescribed or if, after a hearing, the order of restriction, suspension,
2 revocation or disqualification is upheld, the person shall surrender to the
3 division, upon proper demand, any driver's license in the person's
4 possession.

5 (e) In case of failure on the part of any person to comply with any
6 subpoena issued on behalf of the division or the refusal of any witness to
7 testify to any matters regarding which the witness may be lawfully
8 interrogated, the district court of any county, on application of the division,
9 may compel obedience by proceedings for contempt, as in the case of
10 disobedience of the requirements of a subpoena issued from the court or a
11 refusal to testify in the court. Each witness who appears before the director
12 or the director's duly authorized agent by order or subpoena, other than an
13 officer or employee of the state or of a political subdivision of the state,
14 shall receive for the witness' attendance the fees and mileage provided for
15 witnesses in civil cases in courts of record, which shall be audited and paid
16 upon the presentation of proper vouchers sworn to by the witness.

17 (f) The division, in the interest of traffic and safety, may establish or
18 contract with a private individual, corporation, partnership or association
19 for the services of driver improvement clinics throughout the state and,
20 upon reviewing the driving record of a person whose driving privileges are
21 subject to suspension under subsection (a)(2), may permit the person to
22 retain such person's driving privileges by attending a driver improvement
23 clinic. Any person other than a person issued a commercial driver's license
24 under K.S.A. 8-2,125 et seq., and amendments thereto, desiring to attend a
25 driver improvement clinic shall make application to the division and such
26 application shall be accompanied by the required fee. The secretary of
27 revenue shall adopt rules and regulations prescribing a driver's
28 improvement clinic fee which shall not exceed \$500 and such rules and
29 regulations deemed necessary for carrying out the provisions of this
30 section, including the development of standards and criteria to be utilized
31 by such driver improvement clinics. Amounts received under this
32 subsection shall be remitted to the state treasurer in accordance with the
33 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
34 each such remittance, the state treasurer shall deposit the same in the state
35 treasury as prescribed by ~~subsection (f) of~~ K.S.A. 8-267(g), and
36 amendments thereto.

37 (g) When the action by the division restricting a person's driving
38 privileges is based upon certification by the secretary for children and
39 families pursuant to K.S.A. 39-7,155, and amendments thereto, the person
40 may not request a hearing but, within 30 days after notice of restriction is
41 mailed, may submit a written request for administrative review and
42 provide evidence to the division to show the person whose driving
43 privileges have been restricted by the division is not the person certified by

1 the secretary for children and families, did not receive timely notice of the
2 proposed restriction from the secretary for children and families or has
3 been decertified by the secretary for children and families. Within 30 days
4 of its receipt of the request for administrative review, the division shall
5 notify the person whether the restriction has been affirmed or set aside.
6 The request for administrative review shall not stay any action taken by
7 the division.

8 (h) Any person whose driving privileges have been suspended under
9 subsection (b)(1)(A)(ii) or (b)(1)(A)(iii), shall pay a reinstatement fee in
10 the amount of \$100 to the division. The division shall remit all revenues
11 received from such fees, at least monthly, to the state treasurer in
12 accordance with the provisions of K.S.A. 75-4215, and amendments
13 thereto, for deposit in the state treasury and credit to the state highway
14 fund.

15 Sec. 3. K.S.A. 8-2116 is hereby amended to read as follows: 8-
16 2116. (a) Every person convicted of violating K.S.A. 8-2503 *and*
17 *section 1*, and amendments thereto, or violating any of the sections listed
18 in the uniform fine schedule in K.S.A. 8-2118, and amendments thereto, is
19 guilty of a traffic infraction.

20 (b) Except where another penalty or class of misdemeanor is
21 provided by statute, every person convicted of violating any provision of
22 the uniform act regulating traffic on highways designated as a
23 misdemeanor is guilty of a class C misdemeanor, except that upon a
24 second such offense committed within one year after the date of the first
25 such offense, upon conviction thereof, such person is guilty of a class B
26 misdemeanor, and upon a third or subsequent such offense committed
27 within one year after the first such offense, upon conviction thereof, such
28 person is guilty of a class A misdemeanor.

29 Sec. 4. K.S.A. 8-255 and 8-2116 are hereby repealed.

30 Sec. 5. This act shall take effect and be in force from and after its
31 publication in the statute book.