SENATE BILL No. 275

By Committee on Transportation

1-16

AN ACT concerning drivers' licenses; relating to certain restrictions; removing exclusion from the additional 90-day period for suspended or revoked licenses; eligibility for restricted driving privileges; removing and changing certain fees that apply to individuals for failure to comply with a traffic citation; amending K.S.A. 2019 Supp. 8-262 and 8-2110 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2019 Supp. 8-262 is hereby amended to read as follows: 8-262. (a) (1) Any person who drives a motor vehicle on any highway of this state at a time when such person's privilege so to do is canceled, suspended or revoked or while such person's privilege to obtain a driver's license is suspended or revoked pursuant to K.S.A. 8-252a, and amendments thereto, shall be guilty of a class B nonperson misdemeanor on the first conviction and a class A nonperson misdemeanor on the second or subsequent conviction.

(2) No person shall be convicted under this section if such person was entitled at the time of arrest under K.S.A. 8-257, and amendments thereto, to the return of such person's driver's license.

(3) Except as otherwise provided by subsection (a)(4) or (c), every person convicted under this section shall be sentenced to at least five days' imprisonment and fined at least $100 and upon a second conviction shall not be eligible for parole until completion of five days' imprisonment.

(4) Except as otherwise provided by subsection (c) (h) (e), if a person: (A) Is convicted of a violation of this section, committed while the person's privilege to drive or privilege to obtain a driver's license was suspended or revoked for a violation of K.S.A. 8-2,144 or 8-1567, and amendments thereto, or any ordinance of any city or resolution of any county or a law of another state, which ordinance or resolution or law prohibits the acts prohibited by those statutes; and (B) is or has been also convicted of a violation of K.S.A. 8-2,144 or 8-1567, and amendments thereto, or any ordinance of any city or resolution of any county or law of another state, which ordinance or resolution or law prohibits the acts prohibited by those statutes, committed while the person's privilege to
drive or privilege to obtain a driver's license was so suspended or revoked, the person shall not be eligible for suspension of sentence, probation or parole until the person has served at least 90 days' imprisonment, and any fine imposed on such person shall be in addition to such a term of imprisonment.

(b) The division, upon receiving a record of the conviction of any person under this section, or any ordinance of any city or resolution of any county or a law of another state which is in substantial conformity with this section, upon a charge of driving a vehicle while the license of such person is revoked or suspended, shall extend the period of such suspension or revocation for an additional period of 90 days. (1) Except as provided by subsection (b)(2), the division, upon receiving a record of the conviction of any person under this section, or any ordinance of any city or resolution of any county or a law of another state that is in substantial conformity with this section, of a charge of driving a vehicle while the license of such person is revoked or suspended, shall extend the period of such suspension or revocation for an additional period of 90 days.

(2) For any person found guilty of driving a vehicle while the license of such person is suspended for violating K.S.A. 8-2110, and amendments thereto, such offense shall not extend the additional period of suspension pursuant to subsection (b)(1).

(e)—(c) (1) The person found guilty of a class A nonperson misdemeanor on a third or subsequent conviction of this section shall be sentenced to not less than 90 days' imprisonment and fined not less than $1,500 if such person's privilege to drive a motor vehicle is canceled, suspended or revoked because such person:

(A) Refused to submit and complete any test of blood, breath or urine requested by law enforcement excluding the preliminary screening test as set forth in K.S.A. 8-1012, and amendments thereto;

(B) was convicted of violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage;

(C) was convicted of vehicular homicide, K.S.A. 21-3405, prior to its repeal, or K.S.A. 2019 Supp. 21-5406, and amendments thereto, involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or involuntary manslaughter as defined in K.S.A. 2019 Supp. 21-5405(a)(3) and (a)(5), and amendments thereto, or any other murder or manslaughter crime resulting from the operation of a motor vehicle; or

(D) was convicted of being a habitual violator, K.S.A. 8-287, and amendments thereto.

(2) The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person
has served at least 90 days' imprisonment. The 90 days' imprisonment
mandated by this subsection may be served in a work release program only
after such person has served 48 consecutive hours’ imprisonment, provided
such work release program requires such person to return to confinement
at the end of each day in the work release program. The court may place
the person convicted under a house arrest program pursuant to K.S.A.
2019 Supp. 21-6609, and amendments thereto, or any municipal ordinance
to serve the remainder of the minimum sentence only after such person has
served 48 consecutive hours' imprisonment.

(d) For the purposes of determining whether a conviction is a
first, second, third or subsequent conviction in sentencing under this
section, "conviction" includes a conviction of a violation of any ordinance
of any city or resolution of any county or a law of another state which is in
substantial conformity with this section.

Sec. 2. K.S.A. 2019 Supp. 8-2110 is hereby amended to read as
follows: 8-2110. (a) Failure to comply with a traffic citation means failure
either to: (1) Appear before any district or municipal court in response to a
traffic citation and pay in full any fine and court costs imposed; or (2)
otherwise comply with a traffic citation as provided in K.S.A. 8-2118, and
amendments thereto. Failure to comply with a traffic citation is a
misdemeanor, regardless of the disposition of the charge for which such
citation was originally issued.

(b) (1) In addition to penalties of law applicable under subsection (a),
when a person fails to comply with a traffic citation, except for illegal
parking, standing or stopping, the district or municipal court in which the
person should have complied with the citation shall mail notice to the
person that if the person does not appear in district or municipal court or
pay all fines, court costs and any penalties within 30 days from the date of
mailing notice, the division of vehicles will be notified to suspend the
person's driving privileges. The district or municipal court may charge an
additional fee of $5 for mailing such notice. Upon the person's failure to
comply within such 30 days of mailing notice, the district or municipal
court shall electronically notify the division of vehicles. Upon receipt of a
report of a failure to comply with a traffic citation under this subsection,
pursuant to K.S.A. 8-255, and amendments thereto, the division of
vehicles shall notify the violator and suspend the license of the violator
until satisfactory evidence of compliance with the terms of the traffic
citation has been furnished to the informing court. When the court
determines the person has complied with the terms of the traffic citation,
the court shall immediately electronically notify the division of vehicles of
such compliance. Upon receipt of notification of such compliance from the
informing court, the division of vehicles shall terminate the suspension or
suspension action.
(2) (A) In lieu of suspension under paragraph (1), the driver may submit to the division of vehicles a written request for restricted driving privileges, with a non-refundable $25 application fee, to be applied by the division of vehicles for additional administrative costs to implement restricted driving privileges. The division shall remit all restricted driving privilege application fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the division of vehicles operating fund. No application fee shall be collected in connection with such written request.

(B) A person whose driver's license has expired during the period when such person's driver's license has been suspended for failure to pay fines for traffic citations, the driver may submit to the division of vehicles a written request for restricted driving privileges, with a non-refundable $25 application fee, to be applied by the division of vehicles for additional administrative costs to implement restricted driving privileges. The division shall remit all restricted driving privilege application fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the division of vehicles operating fund. No application fee shall be collected in connection with such written request.

(C) An individual shall not qualify for restricted driving privileges pursuant to this section subsection (b)(2)(A) or (b)(2)(B) unless the following conditions are met: (i) The suspended license that expired was issued by the division of vehicles; (ii) the suspended license resulted from the individual's failure to comply with a traffic citation pursuant to subsection (b)(1) and there is no other basis for the license suspension or cancellation except for violations of this section; and (iii) the traffic citation that resulted in the failure to comply pursuant to subsection (b)(1) was issued in this state; and (iv) the individual has not previously received a stayed suspension as a result of a driving while suspended conviction.

(D) Upon review and approval of the driver's eligibility, the driving privileges will be restricted by the division of vehicles for a period up to one year or until the terms of the traffic citation have been complied with and the court shall immediately electronically notify the division of vehicles of such compliance. If the driver fails to comply with the traffic citation within the one year restricted period, the driving privileges will be suspended by the division of vehicles until the court determines the person has complied with the terms of the traffic citation and the court shall immediately electronically notify the division of vehicles of such compliance. Upon receipt of notification of such compliance from the
informing court, the division of vehicles shall terminate the suspension
action. When restricted driving privileges are approved pursuant to this
section, the person's driving privileges shall be restricted to driving only
under the following circumstances: (i) in going to or returning from the
person's place of employment or schooling; (ii) in the course of the
person's employment; (iii) in going to or returning from an appointment
with a health care provider or during a medical emergency; and (iv) in
going to and returning from probation or parole meetings, drug or alcohol
counseling or any place the person is required to go by a court.

(c) (1) Prior to July 1, 2018, except as provided in subsection (d),
when the district or municipal court notifies the division of vehicles of a
failure to comply with a traffic citation pursuant to subsection (b), the
court shall assess a reinstatement fee of $59 for each charge on which the
person failed to make satisfaction regardless of the disposition of the
charge for which such citation was originally issued and regardless of any
application for restricted driving privileges. Such reinstatement fee shall
be in addition to any fine, restricted driving privilege application fee,
district or municipal court costs and other penalties. The court shall remit
all reinstatement fees to the state treasurer in accordance with the
provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
each such remittance, the state treasurer shall deposit the entire amount in
the state treasury and shall credit 42.37% of such moneys to the division of
vehicles operating fund, 31.78% to the community alcoholism and
intoxication programs fund created by K.S.A. 41-1126, and amendments
thereto, 10.59% to the juvenile alternatives to detention fund created by
K.S.A. 79-4803, and amendments thereto, and 15.26% to the judicial
20-1a15, and amendments thereto.

(2) On and after July 1, 2018, Except as provided in subsection (d),
when the district or municipal court notifies the division of vehicles of a
failure to comply with a traffic citation issued on and after July 1, 2020,
pursuant to subsection (b), the court shall assess a reinstatement fee of
$100 for each charge on which the person failed to make satisfaction
regardless of the disposition of the charge for which such citation was
originally issued and regardless of any application for restricted driving
privileges for each case. Such reinstatement fee shall be in addition to any
fine, restricted driving privilege application fee, district or municipal court
costs and other penalties and shall only be collected after a person has
been determined to be eligible for reinstatement. The court shall remit
all reinstatement fees to the state treasurer in accordance with the
provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
each such remittance, the state treasurer shall deposit the entire amount in
the state treasury and shall credit the first $15 of such reinstatement fee to
the judicial branch nonjudicial salary adjustment fund and of the remaining amount, 29.41% of such moneys to the division of vehicles operating fund, 22.06% to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, 7.36% to the juvenile alternatives to detention fund created by K.S.A. 79-4803, and amendments thereto, and 41.17% to the judicial branch nonjudicial salary adjustment fund created by K.S.A. 2019 Supp. 20-1a15, and amendments thereto.

(d) The district court or municipal court shall waive the reinstatement fee provided for in subsection (c), if the failure to comply with a traffic citation was the result of such person enlisting in or being drafted into the armed services of the United States, being called into service as a member of a reserve component of the military service of the United States, or volunteering for such active duty, or being called into service as a member of the state of Kansas national guard, or volunteering for such active duty, and being absent from Kansas because of such military service.

(e) A person who is assessed a reinstatement fee pursuant to subsection (c) may petition the court that assessed the fee at any time to waive payment of the fee, any additional charge imposed pursuant to subsection (f), or any portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the person or the person's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

(f) Except as provided further, the reinstatement fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for such reinstatement. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2017, through June 30, 2019, the supreme court may impose an additional charge, not to exceed $22 per reinstatement fee, to fund the costs of non-judicial personnel.

Sec. 3. K.S.A. 2019 Supp. 8-262 and 8-2110 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.