

SESSION OF 2021

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2193**

As Amended by House Committee on  
Transportation

**Brief\***

HB 2193, as amended, would create and amend law related to driver's licenses suspended for failure to comply with a traffic citation, defined in continuing law as failing to appear in court in response to a traffic citation and pay in full any fine and court costs imposed or otherwise comply with a traffic citation. Continuing law requires a court to provide notice to the Division of Vehicles (Division), Kansas Department of Revenue (KDOR), of failure to comply and the Division to suspend the license of the violator until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the court.

[*Note:* In continuing law, driving while the person's privilege to do so is canceled, suspended, or revoked is a misdemeanor (KSA 2020 Supp. 8-262), as is operating a motor vehicle in violation of restrictions on the driver's license (KSA 2020 Supp. 8-291).]

***Payment Plans***

The bill would create law regarding a hardship waiver and payments plans.

The bill would allow a person financially unable to pay either the full amount of the original traffic fine or fines and court costs or a monthly payment from an approved hardship payment plan to contact the court of jurisdiction to request a

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

hardship waiver to offset part or all of the balance owed. The bill would allow the waiver to include options for monthly installment payments, credits, or both.

The bill would require a monthly payment amount to correspond to the person's ability to pay; the monthly amount could be the greater of \$10 or 2 percent of the person's annual net income, as of their most recent tax return, divided by 12.

The bill would require KDOR to make available for download from the KDOR website a single-page uniform hardship waiver application form and the form to be available in each jurisdiction's clerk of court office, for defendants to sign and submit to the court.

The bill would require a court that denies an economic hardship petition to provide a written explanation to the defendant stating the reason or reasons for the denial.

The bill would require the municipal or judicial district court to order, under the terms of the payment agreement with the court for the original traffic fine or fines and court costs payment:

- The recall of any warrants directly related to the suspension of the person's driver's license;
- The waiver of any reinstatement and collection fees directly related to the suspension;
- The expungement of any previous convictions for driving on a suspended license due to nonpayment of traffic fines and court costs, or both, or failure to appear.

The court would be permitted to order a defendant who enters into a payment agreement to receive credit against remaining traffic fines and court costs by performing community service, attending classes, or both, including

online classes aimed at defensive and safe driving or a state-approved traffic school program; the credit would be \$15 for each hour spent doing community service or attending classes. The bill would require any classes and community service to be approved by the court before the person receives credit.

After the court has approved a hardship payment plan, the bill would require the court to order the Division to reinstate the person's driving privileges without restriction. After the person has agreed to an approved hardship payment plan, that person's license could not be suspended due to nonpayment until no payment has been made for 90 consecutive days.

The bill would state any violation of law by the person holding a restricted license that would result in the suspension or revocation of a driver's license would result in revocation of the restricted license.

As soon as the original traffic fine or fines and court costs have been paid by the defendant, the bill would require the district or municipal court to electronically order the Division to immediately remove restrictions on the driver's license and mail written notice to the defendant that their Kansas driver's privileges and license have been reinstated.

The bill would state the provisions of this section would not apply to non-traffic warrants or to anyone whose driver's license has been suspended or revoked for driving under the influence of alcohol, drugs, or both.

### ***Additional Suspension***

In a statute requiring suspension of a driver's license for driving when the person's driving privileges are canceled, suspended, or revoked, the bill would amend a provision requiring the Division to extend a period of suspension or revocation an additional 90 days to state the suspension or

revocation shall not be extended for any additional time if the person's license was suspended for failure to comply with a traffic citation.

### ***Traffic Citation Procedures***

The bill would require a traffic citation to contain the phone number and email address of the clerk of the court of jurisdiction and add a municipal court, rather than only a district court, as a place specified in the notice to appear.

The bill would require the person charged to either appear in court (as in continuing law) or be given the phone or email address of the clerk of the court to enter a plea prior to the court date.

The bill would require the notice to appear to contain a provision stating a person's failure to enter a plea with the clerk of the court before the scheduled court appearance and, if pleading guilty, make payments as agreed to with the court, or appear in court, may result in suspension of the person's driver's license. If the information described above does not appear on the notice to appear, the bill would require a law enforcement officer to provide a form to a person charged with a traffic infraction that, in addition to requirements in continuing law, explains the person's right to contact the clerk of the court to enter a plea and right to negotiate with the court a plan to pay the fine or fines stated on the citation and court costs plus the phone number and email address of the clerk of the court.

### ***Definition and Fees***

The bill would amend the definition of "failure to comply with a traffic citation," which in current law is failing to appear in court in response to a traffic citation and pay in full any fine and court costs imposed or otherwise comply with a traffic citation. The bill would add failure to enter a plea with the

clerk of the court prior to the the assigned court date as an alternative to appearing in court, remove a requirement the fine and court costs be paid in full, and add that the fine and court costs are to be paid in accordance with the amount and payment plan agreed upon by the court. The bill would remove language regarding otherwise complying with a traffic citation.

In a provision regarding notices mailed by the court to noncompliant persons, the bill would substitute language regarding a requirement for entering a plea with the court for language that the person pay all fines, court costs, and any penalties.

The bill would remove a nonrefundable \$25 application fee for restricted driving privileges for which a person who fails to comply with a traffic citation can apply under continuing law in lieu of suspension for failure to comply with a traffic citation, unless the citation was for illegal parking, standing, or stopping. A provision imposing a similar application fee applicable if the person's driver's license expired while driving privileges were suspended for failure to pay fines for traffic citations also would be removed. The bill would state no application fee shall be collected in connection with a written request for restricted driving privileges under these circumstances.

Continuing law requires a municipal or district court to assess a \$100 reinstatement fee when the court notifies the Division of failure to comply with a traffic citation, in addition to any fines, court costs, and other penalties. The bill would state on and after July 1, 2021, the fee is to be assessed for each case, rather than for each charge. The bill also would require the fee to be collected only after a person has been determined to be eligible for reinstatement of driving privileges.

The bill would make a technical change regarding an additional charge, to consolidate statutes.

## **Background**

The bill was introduced by the House Committee on Corrections and Juvenile Justice at the request of Representative Jennings on behalf of the Kansas Criminal Justice Reform Commission. [Note: The bill contains provisions similar to those of SB 100.]

### ***House Committee on Transportation***

In the House Committee hearing, **proponent** testimony was provided by Senator Faust-Goudeau; the vice chairperson of the Racial Profiling Advisory Board of Wichita; representatives of Kansas Association of Chiefs of Police, Kansas Legal Services, Kansas Peace Officers Association, Kansas Sheriffs Association, and the League of Kansas Municipalities; and a private citizen. Written-only proponent testimony was provided by Representative Finney; the president of the Kansas Black Leadership Council; the chair of the Racial Profiling Advisory Board of Wichita; a Sedgwick County Commissioner; representatives of the Justice Action Network, The Greater Kansas City Chamber of Commerce, the Wichita Regional Chamber of Commerce, and, jointly, Douglas County, the Human Services Coalition, and United Way of Douglas County; and two private citizens. Proponents described the challenges faced by those whose driver's licenses have been suspended for failure to comply with a traffic citation and subsequent driving while a driver's license is suspended for failure to fully comply, including accumulated debt and being unable to legally drive to work and elsewhere. They stated approximately 140,000 Kansans have debt-based driver's license suspensions. They suggested various amendments to the bill.

A representative of the Chief Justice and a representative of the Kansas Appleseed Center for Law and Justice provided neutral testimony regarding fiscal and administrative issues. Conferees stated the courts would need replacement moneys if fees are reduced and would face

challenges if fees would be changed for cases that had already been sent to collections and that the bill does not sufficiently resolve the driver's license suspension problem in Kansas.

A representative of the Kansas District Judges Association provided written-only opponent testimony regarding reductions in revenues to the Judicial Branch if the bill is enacted and requesting the financial ramifications be addressed.

The House Committee amended the bill to adopt amendments proposed by proponents regarding entering pleas with the court, qualifications for restricted driving privileges in certain circumstances, payment agreements, and information on traffic citations. It also amended the bill to make changes to reinstatement fees apply to court notification to the Division of failure to comply with a traffic citation on and after July 1, 2021.

### **Fiscal Information**

According to the fiscal note provided by the Division of the Budget on the bill, as introduced, the Office of Judicial Administration (OJA) indicates if the fee per case (rather than fee per charge, as in current law) were to apply to all cases on file, enactment of the bill could have a significant fiscal impact on the Judicial Branch. [Note: The House Committee amended the bill to apply changes to reinstatement fees prospectively.] OJA estimates fee revenue collection would decrease by \$749,813, an estimated 44.0 percent, for FY 2022 and each subsequent year, by approximately \$528,726 to the Nonjudicial Salary Adjustment Fund and \$221,087 to the Judicial Branch Docket Fee Fund.

KDOR indicates the provision of the bill, as introduced, to remove the application fee and reinstatement fee would reduce revenue by approximately \$1.5 million for FY 2022

and would increase one-time administrative expenditures by \$7,000 from the Division of Vehicles Operating Fund.

The League of Kansas Municipalities indicates any cost to cities from enactment of the bill would be negligible. The Kansas Association of Counties indicates the bill could reduce fee revenues for counties, but the bill could help clear case backlogs.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2022 Governor's Budget Report*.

Restricted driver's license; fines; traffic violation; traffic citation