

SESSION OF 2021

SUPPLEMENTAL NOTE ON SENATE BILL NO. 100

As Amended by Senate Committee on
Transportation

Brief*

SB 100, 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

*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 for doing community service and attending court-approved classes, or both.

The bill would require a monthly payment amount to correspond to the person's ability to pay; the bill would require the monthly amount to be the greater of \$10 or 2.0 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 also 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 courses, 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 add to the information required to be on a traffic citation 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 phone or email of the clerk of the court to enter a plea prior to the court date.

The bill would require the notice to appear for a traffic infraction 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. The officer also must provide the phone number and email address of the clerk of the court in addition to the address 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 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 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 either circumstance.

The bill would add a requirement for eligibility for restricted driving privileges: the license was suspended or canceled only for violations of failing to comply with traffic citation.

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, for a traffic citation issued 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, and additional technical amendments.

Background

The bill was introduced by the Senate Committee on Transportation at the request of Senator Faust-Goudeau.

Senate Committee on Transportation

In the Senate Committee hearing, **proponent** testimony was provided by Senator Faust-Goudeau; the Vice Chairperson of the Racial Profiling Advisory Board of Wichita; representatives of Americans for Prosperity Kansas, Kansas Appleseed Center for Law and Justice, Kansas Association of Chiefs of Police, Kansas Legal Services, Kansas Peace Officers Association, Kansas Sheriffs Association, and League of Kansas Municipalities; and a private citizen. The 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 driver's license suspensions related to debt but not to traffic safety. They suggested various amendments to the bill.

Written-only **proponent** testimony was provided by the the Chairperson and another member of the Racial Profiling Citizens Advisory Board of Wichita; the president of the Heartland Wichita Black Chamber of Commerce; the president and a member of the Greater Wichita Ministerial League; representatives of Common Ground Producers and Growers, Inc., Greater Mizpah Baptist Church, and the NAACP; and six private citizens.

Neutral testimony was provided by the Special Counsel to the Chief Justice, Judicial Branch, who 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. Written-only neutral testimony was provided by a representative of ACLU Kansas, requesting fines and fees be removed.

Written-only **opponent** testimony was provided by the Chief Judge of the Fifth Judicial District, who also provided testimony on behalf of the Kansas District Judges' Association, regarding reductions in revenues to the Judicial Branch if the bill is enacted and requesting the financial ramifications be addressed.

No other testimony was provided.

The Senate 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 issued on and after July 1, 2021.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the Office of Judicial

Administration (OJA) indicates enactment of the bill would decrease fee revenue collection by \$749,813 for FY 2022 and each subsequent year. The bill would change the \$100 fee per charge to a \$100 fee per case for reinstatement of a license. For FY 2019, the driver's license reinstatement revenue in the Nonjudicial Salary Adjustment Fund was \$1,201,649. OJA estimates the revenue would decrease by 44.0 percent, or \$528,726 ($\$1,201,649 \times 0.44 = \$528,726$). In addition, a \$22 surcharge on every reinstatement fee is deposited into the Judicial Branch Docket Fee Fund. The FY 2019 driver's license reinstatement fee surcharge revenue in the Docket Fee Fund was \$502,471. OJA estimates the revenue would decrease by 44.0 percent, or \$221,087 ($\$502,471 \times 0.44 = \$221,087$). OJA indicates if the provisions of the bill mean the \$100 reinstatement fee and the \$22 surcharge must not be assessed to citations issued before July 1, 2021, the revenue decrease would be much greater. [Note: The Senate Committee amended the bill to apply changes to reinstatement fees prospectively.]

The Department of Revenue indicates the provisions of the bill to remove the application fee and reinstatement fee would reduce revenue by approximately \$1.5 million for FY 2022. The Sentencing Commission and the Department of Corrections indicate the enactment of the bill would have no fiscal effect on the agencies.

The League of Kansas Municipalities indicates any cost to cities resulting from the enactment of the bill would be negligible. The Kansas Association of Counties indicates the bill could reduce fee revenues for counties.

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

Restricted driver's license; fines; traffic violation