

STATE OF KANSAS

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SENATE CHAMBER

MR. PRESIDENT:

I move to amend **SB 493**, on page 1, following line 7, by inserting:

"Section 1. K.S.A. 8-1015 is hereby amended to read as follows: 8-1015. (a) (1) Whenever a person's driving privileges have been suspended as provided in K.S.A. 8-1014, and amendments thereto, such person may apply to the division for such person's driving privileges to be restricted for the suspension period to driving only a motor vehicle equipped with an ignition interlock device.

(2) The division shall assess an application fee of \$100 for a person to apply to modify the suspension to restricted ignition interlock status.

(3) The division shall approve the request for such restricted license unless such person's driving privileges have been restricted, suspended, revoked or disqualified pursuant to another action by the division or a court. If the request is approved, upon receipt of proof of the installation of such device, the division shall issue a copy of the order imposing such restrictions on the person's driving privileges and such order shall be carried by the person at any time the person is operating a motor vehicle on the highways of this state. Except as provided in K.S.A. 8-1017, and amendments thereto, if such person is convicted of a violation of the restrictions, such person's driving privileges shall be suspended for an additional year, in addition to any term of suspension or restriction as provided in K.S.A. 8-1014(a) or (b), and amendments thereto.

(b) (1) Except as provided in subsection (b)(2), when a person has completed the suspension pursuant to K.S.A. 8-1014(b)(1)(A), and amendments thereto, the division shall ~~restrict the person's driving privileges~~ continue such suspension for 180 days and, upon

completion of such suspension, reinstate the person's driving privileges, unless the person's driving privileges have been restricted, suspended, revoked or disqualified pursuant to another action by the division or a court. Such person may apply to the division for such person's driving privileges to be restricted for the suspension period to driving only a motor vehicle equipped with an ignition interlock device pursuant to subsection (a).

(2) When a person has completed the suspension pursuant to K.S.A. 8-1014(b)(1)(A), and amendments thereto, the division shall restrict the person's driving privileges for one year to driving only a motor vehicle equipped with an ignition interlock device if the records maintained by the division indicate that such person has previously:

- (A) Been convicted of a violation of K.S.A. 8-1599, and amendments thereto;
- (B) been convicted of a violation of K.S.A. 41-727, and amendments thereto;
- (C) been convicted of any violations listed in K.S.A. 8-285(a), and amendments thereto;
- (D) been convicted of three or more moving traffic violations committed on separate occasions within a 12-month period; or
- (E) had such person's driving privileges revoked, suspended, canceled or withdrawn.

(c) Except as provided in subsection (b), when a person has completed the suspension pursuant to K.S.A. 8-1014(a) or (b), and amendments thereto, the division shall restrict the person's driving privileges pursuant to K.S.A. 8-1014(a) or (b), and amendments thereto, to driving only a motor vehicle equipped with an ignition interlock device. Upon restricting a person's driving privileges pursuant to this subsection, the division shall issue a copy of the order imposing the restrictions which is required to be carried by the person at any time the person is operating a motor vehicle on the highways of this state.

- (d) (1) Whenever an ignition interlock device is required by law, such ignition interlock

device shall be approved by the highway patrol and maintained at the person's expense. Proof of the installation of such ignition interlock device, for the entire period required by the applicable law, shall be provided to the division before the person's driving privileges are fully reinstated.

(2) Every person who has an ignition interlock device installed as required by law shall be required to complete the ignition interlock device program pursuant to this section and rules and regulations adopted by the secretary of revenue. A person may only complete the ignition interlock device program if the person has not more than two standard violations and no serious violation in the 90 consecutive days prior to application for reinstatement and the application occurs upon or after expiration of the applicable ignition interlock period required by law. The approved service provider shall provide proof of completion to the division before the person's driving privileges are fully reinstated.

(3) As used in this subsection:

(A) "Standard violation" means any of the following, as reported by the approved service provider:

(i) The driver has blown a BrAC fail when attempting an initial engine start-up breath test;

(ii) the driver has blown a BrAC fail when attempting a required rolling retest;

(iii) the driver fails to execute a valid rolling retest;

(iv) the driver fails to submit to a requested rolling retest by turning the vehicle off to avoid submitting to the rolling retest; or

(v) the driver has blown a high BrAC during an initial engine start-up breath test;

(B) "serious violation" means any of the following, as reported by the approved service provider:

(i) Tampering with the ignition interlock device;

(ii) circumventing the ignition interlock device; or

(iii) the driver has blown a high BrAC during a rolling retest;

(C) "BrAC" means the breath alcohol concentration expressed as weight divided by volume, based upon grams of alcohol per 210 liters of breath;

(D) "BrAC fail" means the ignition interlock device registers a BrAC value equal to or greater than the alcohol setpoint, as defined in rules and regulations adopted by the secretary of revenue, when the intended driver conducts an initial test or retest;

(E) "high BrAC" means a BrAC fail result that registers an alcohol setpoint of 0.08 or greater; and

(F) "rolling retest" means a breath test that is required after the initial engine start-up breath test and while the engine is running.

(e) Except as provided further, any person whose license is restricted to operating only a motor vehicle with an ignition interlock device installed may operate an employer's vehicle without an ignition interlock device installed during normal business activities, provided that the person does not partly or entirely own or control the employer's vehicle or business. The provisions of this subsection shall not apply to any person whose driving privileges have been restricted for the remainder of the one-year suspension period as provided in subsection (a)(1).

(f) Upon expiration of the applicable ignition interlock period required by law and completion of the ignition interlock device program as described in subsection (d), the licensee may apply to the division for the return of any license previously surrendered by the licensee. If the license has expired, the person may apply to the division for a new license, which shall be issued by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless the person's driving privileges have been suspended or revoked prior to expiration.

(g) Any person who has had the person's driving privileges suspended, restricted or revoked pursuant to K.S.A. 8-1014(a), (b) or (c), prior to the amendments by section 16 of chapter 172 of the 2012 Session Laws of Kansas and section 14 of chapter 105 of the 2011 Session Laws of Kansas, may apply to the division to have the suspension, restriction or revocation penalties modified in conformity with the provisions of K.S.A. 8-1014(a), (b) or (c), and amendments thereto. The division shall assess an application fee of \$100 for a person to apply to modify the suspension, restriction or revocation penalties previously issued. The division shall modify the suspension, restriction or revocation penalties, unless such person's driving privileges have been restricted, suspended, revoked or disqualified pursuant to another action by the division or a court.

(h) The division shall remit all application fees collected pursuant to subsections (a) and (g) 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 such moneys to the division of vehicles operating fund until an aggregate amount of \$100,000 is credited to the division of vehicles operating fund each fiscal year. On and after an aggregate amount of \$100,000 is credited to such fund each fiscal year, the entire amount of such remittance shall be credited to the community corrections supervision fund created by K.S.A. 75-52,113, and amendments thereto. The application fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for such application. 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 page 3, in line 28, after "K.S.A." by inserting "8-1015 and"; also in line 28, by striking "is" and inserting "are";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after the second semicolon by inserting "removing the requirement that the division restrict certain first time offenders' driving privileges for 180 days to driving only a motor vehicle equipped with an ignition interlock device and requiring continuation of suspended driving privileges for 180 days;"; in line 4, after "K.S.A." by inserting "8-1015 and"; in line 5, by striking "section" and inserting "sections"

Senator \_\_\_\_\_