



Dale Goter  
Government Relations Manager

# TESTIMONY

City of Wichita  
455 N Main, Wichita, KS. 67202  
Wichita Phone: 316.352.4876  
dgoter@wichita.gov

---

**HEARING ON HB2040**  
**House Judiciary Committee**  
**3:30 p.m. Wednesday, Jan. 28, 2015**

Chairman Barker and members of the House Judiciary Committee:

The City of Wichita supports proposed amendments to K.S.A. 8-262 regarding penalties for driving while suspended offenses.

Currently, a district or municipal court sentencing a defendant for a driving while suspended conviction must consider any prior conviction for driving while suspended in imposing a sentence.

Any conviction, regardless of age, must be considered by the court. The court cannot give any consideration to the age of the offense.

A second offense carries a five day mandatory jail sentence. A third or subsequent conviction of certain types of driving while suspended mandates a jail sentence of 90 days imprisonment.

The lack of a look back or "decay" provision in K.S.A. 8-262 is inconsistent with other state statutes regarding the sentencing of traffic offenses.

K.S.A. 8-1567(i) relating to DUI offenses requires a court to count only prior convictions occurring after July 1, 2001, for sentencing enhancement purposes.

K. S.A. 40-31 04(g)(2) has a look back period of three years to enhance penalties for convictions of operating a motor vehicle without liability insurance.

K.S.A. 8-285 relating to driving while a habitual violator considers only convictions within a five year period in determining under what circumstances an offender may be considered to be a habitual violator.

Under the current "no look back" period, all driving while suspended convictions aggregate to determine the level of punishment. By including all older convictions, offenders are often sentenced to mandatory jail time, based on convictions occurring several years prior to the

current offense. The result of using these old convictions to enhance penalties increases jail crowding and incarceration fees assessed to municipalities.

Additionally, these sanctions can be viewed as punitive to offenders who are punished based on "stale" convictions.

Imposition of a reasonable decay period allows for the Court to consider a person's total driving history at sentencing. The court, however, would not be mandated and locked into the imposition of a mandatory jail time.

The City of Wichita urges passage of this legislation.