



SUPREME COURT OF KANSAS

KANSAS JUDICIAL CENTER

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House Judiciary

Neutral Testimony

HB 2434—revoking authority to suspend
driving privileges for the nonpayment of traffic citation fines

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Chairman Patton and members of committee, thank you for the opportunity to appear today to testify concerning HB 2434. The bill would stop the practice of suspending an individual's driving privileges when that individual fails to pay the fine and court costs associated with a traffic citation. Because this will likely reduce the number of drivers' licenses that are suspended, the judicial branch anticipates that this change would reduce the total number of reinstatement fees that are assessed.

Currently, the judicial branch assesses and collects the reinstatement fee and remits it to the state treasurer for deposit into the treasury. Once deposited, the state treasurer credits the first \$15.00 from each reinstatement fee, plus 41.17% of the remaining balance, into the Judicial Branch Nonjudicial Salary Adjustment Fund. The Judicial Branch Nonjudicial Salary Adjustment Fund is used to compensate judicial branch employees, but it cannot be used to compensate judges or Supreme Court justices. Last fiscal year, \$1,201,649 in reinstatement fees were deposited in this salary adjustment fund. Additionally, we estimate that \$502,471 in reinstatement fee surcharge was deposited in the Judicial Branch Docket Fee Fund last fiscal year.

Because the judicial branch anticipates that this measure would reduce the total number of reinstatement fees assessed in Kansas, it consequently anticipates a decrease in the amount of funding available in the Judicial Branch Nonjudicial Salary Adjustment Fund: a decrease that— if not replaced with a separate, equal amount of funding—would impact the judicial branch's ability to compensate its employees and threaten its ability to remain open to the public. We are unable to estimate the fiscal impact this measure would have on the judicial branch. If drivers' licenses are no longer to be suspended for failure to pay but can be suspended for failure to

appear, it is anticipated that there would be a dramatic decrease in credits to the Nonjudicial Salary Adjustment Fund stemming from reinstatement fees. For example, if the Judicial Branch sees a 50% decrease in reinstatement fee and surcharge revenue, this would equate to \$600,825 less in revenue to fund judicial branch employee salaries. While the judicial branch has no position on the policy underlying the bill, it draws the committee's attention to the fiscal impact this measure could have on the branch's operations. If the bill is passed, the judicial branch asks that the Legislature appropriate SGF funding to fill this gap. Also, under this bill, it is anticipated that more people owing fees would appear in court so that their driving privileges would not be suspended.

This bill also strikes the effective dates governing when a reinstatement fee is assessed. The judicial branch contracts with debt collection vendors to assist in collecting those fees assessed on behalf of the state. The bill, as offered, could impact those fees already assessed in a case. For example, a case involving a fee that has already been assessed and is currently being collected by a vendor may have to be reexamined by a court for a determination of what can be collected or, possibly, remitted to the defendant. This would create a substantial workload for district court clerks and judges. To avoid any logistical issues that could arise from the implementation of these changes, we respectfully request the committee favorably consider the attached amendment, or one similar, that would cause the changes contained in the bill to operate prospectively to citations issued on and after July 1, 2020.

Thank you for your time. I am happy to stand for questions regarding the bill.

Attachment

HOUSE BILL No. 2434

By Representative Finney

1-9

1 AN ACT concerning traffic regulations; relating to driving privileges;
2 revoking the authority to suspend driving privileges for the
3 nonpayment of fines from traffic citations; amending K.S.A. 2019
4 Supp. 8-2106 and 8-2110 and repealing the existing sections; also
5 repealing K.S.A. 2019 Supp. 8-2110b.
6

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

8 Section 1. K.S.A. 2019 Supp. 8-2106 is hereby amended to read as
9 follows: 8-2106. (a) A law enforcement officer may prepare and deliver to
10 a person a written traffic citation on a form approved by the division of
11 motor vehicles, if the law enforcement officer stops the person for a
12 violation of:

13 (1) The uniform act regulating traffic on highways, which violation is
14 a misdemeanor or a traffic infraction;

15 (2) K.S.A. 8-262, 8-287, 8-2,144, 8-1599, 40-3104, 40-3106, 41-715,
16 41-724, 41-727, 47-607, 66-1,111, 66-1,129, 66-1,139, 66-1,140, 66-273,
17 66-1314, 66-1324, 66-1330, 66-1331, 66-1332, 68-2104, 68-2106 or
18 ~~subsection (b) of K.S.A. 79-34,122(b), or K.S.A. 2019 Supp. subsection~~
19 ~~(a) of 21-5607(a), 21-5810, 21-5815, 21-5816, subsection (a) of 21-~~
20 ~~5817(a) or 21-6203, and amendments thereto;~~

21 (3) K.S.A. 31-155, and amendments thereto, involving transportation
22 of bottle rockets;

23 (4) K.S.A. 66-1314 or 66-1328, and amendments thereto, and any
24 rules and regulations adopted pursuant thereto;

25 (5) any rules and regulations adopted pursuant to K.S.A. 2-1212, 68-
26 2001 or 31-146, and amendments thereto;

27 (6) any rules and regulations adopted pursuant to K.S.A. 31-133, and
28 amendments, thereto relating to transportation of materials or fuel; or

29 (7) K.S.A. 8-1343 through 8-1347, and amendments thereto, relating
30 to the child passenger safety act; or

31 (8) K.S.A. 8-2501 through 8-2507, and amendments thereto, relating
32 to the safety belt use act.

33 (b) The citation shall contain a notice to appear in court, the name and
34 address of the person, the type of vehicle the person was driving, whether
35 hazardous materials were being transported, whether an accident occurred,
36 the state registration number of the person's vehicle, if any, a statement

1 whether the vehicle is a commercial vehicle, whether the person is
2 licensed to drive a commercial motor vehicle, the offense or offenses
3 charged, the time and place when and where the person shall appear in
4 court, the signature of the law enforcement officer, and any other pertinent
5 information.

6 (c) The time specified in the notice to appear shall be at least five
7 days after the alleged violation unless the person charged with the
8 violation demands an earlier hearing.

9 (d) The place specified in the notice to appear shall be before a judge
10 of the district court within the county in which the offense is alleged to
11 have been committed.

12 (e) Except in the circumstances to which ~~subsection (a)~~ of K.S.A. 8-
13 2104(a), and amendments thereto, apply, in the discretion of the law
14 enforcement officer, a person charged with a misdemeanor may give
15 written promise to appear in court by signing at least one copy of the
16 written citation prepared by the law enforcement officer, in which event
17 the law enforcement officer shall deliver a copy of the citation to the
18 person and shall not take the person into physical custody.

19 (f) When a person is charged with a traffic infraction, the notice to
20 appear shall provide a place where the person may make a written entry of
21 appearance, waive the right to a trial and plead guilty or no contest. Such
22 notice to appear shall contain a provision that the person's failure to ~~either~~
23 ~~pay such fine and court costs or~~ appear at the specified time may result in
24 suspension of the person's drivers' license as provided in K.S.A. 8-2110,
25 and amendments thereto. The notice to appear shall provide a space where
26 the law enforcement officer shall enter the appropriate fine specified in the
27 uniform fine schedule contained in K.S.A. 8-2118, and amendments
28 thereto, for the violation charged and court costs in the amount provided
29 by law. If the notice to appear does not do so, the law enforcement officer
30 shall provide a person charged with a traffic infraction a form explaining
31 the person's right to appear and right to a trial and the person's right to pay
32 the appropriate fine and court costs prior to the appearance date. The law
33 enforcement officer shall provide the person with the address of the court
34 to which the written entry of appearance, waiver of trial, plea of guilty or
35 no contest and payment of fine and court costs shall be mailed.

36 (g) Any officer violating any of the provisions of subsection (f) is
37 guilty of misconduct in office and shall be subject to removal from office.

38 ~~Sec. 2.~~ K.S.A. 2019 Supp. 8-2110 is hereby amended to read as
39 follows: 8-2110. (a) Failure to comply with a traffic citation means failure
40 either to: (1) Appear before any district or municipal court in response to a
41 traffic citation ~~and pay in full any fine and court costs imposed~~; or (2)
42 otherwise comply with a traffic citation as provided in K.S.A. 8-2118, and
43 amendments thereto. Failure to comply with a traffic citation is a

(h) The amendments made to this section by 2019 HB 2434 shall apply prospectively to citations issued on and after July 1, 2020.

1 misdemeanor, regardless of the disposition of the charge for which such
2 citation was originally issued.

3 (b) (1) In addition to penalties of law applicable under subsection (a),
4 when a person fails to comply with a traffic citation, except for illegal
5 parking, standing or stopping, the district or municipal court in which the
6 person should have complied with the citation shall mail notice to the
7 person that if the person does not appear in district or municipal court ~~or~~
8 ~~pay all fines, court costs and any penalties within 30 days from the date of~~
9 ~~mailing notice~~, the division of vehicles will be notified to suspend the
10 person's driving privileges. The district or municipal court may charge an
11 additional fee of \$5 for mailing such notice. Upon the person's failure to
12 comply within such 30 days of mailing notice, the district or municipal
13 court shall electronically notify the division of vehicles. Upon receipt of a
14 report of a failure to comply with a traffic citation under this subsection,
15 pursuant to K.S.A. 8-255, and amendments thereto, the division of
16 vehicles shall notify the violator and suspend the license of the violator
17 until satisfactory evidence of compliance with the terms of the traffic
18 citation has been furnished to the informing court. When the court
19 determines the person has complied with the terms of the traffic citation,
20 the court shall immediately electronically notify the division of vehicles of
21 such compliance. Upon receipt of notification of such compliance from the
22 informing court, the division of vehicles shall terminate the suspension or
23 suspension action.

24 (2) (A) In lieu of suspension under paragraph (1), the driver may
25 submit to the division of vehicles a written request for restricted driving
26 privileges, with a non-refundable \$25 application fee, to be applied by the
27 division of vehicles for additional administrative costs to implement
28 restricted driving privileges. The division shall remit all restricted driving
29 privilege application fees to the state treasurer in accordance with the
30 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
31 each such remittance, the state treasurer shall deposit the entire amount in
32 the state treasury to the credit of the division of vehicles operating fund.

33 (B) A person whose driver's license has expired during the period
34 when such person's driver's license has been suspended for failure to pay
35 fines for traffic citations, the driver may submit to the division of vehicles
36 a written request for restricted driving privileges, with a non-refundable
37 \$25 application fee, to be applied by the division of vehicles for additional
38 administrative costs to implement restricted driving privileges. The
39 division shall remit all restricted driving privilege application fees to the
40 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
41 amendments thereto. Upon receipt of each such remittance, the state
42 treasurer shall deposit the entire amount in the state treasury to the credit
43 of the division of vehicles operating fund. An individual shall not qualify

1 for restricted driving privileges pursuant to this section unless the
2 following conditions are met: (i) The suspended license that expired was
3 issued by the division of vehicles; (ii) the suspended license resulted from
4 the individual's failure to comply with a traffic citation pursuant to
5 subsection (b)(1); (iii) the traffic citation that resulted in the failure to
6 comply pursuant to subsection (b)(1) was issued in this state; and (iv) the
7 individual has not previously received a stayed suspension as a result of a
8 driving while suspended conviction.

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

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

1 ~~K.S.A. 79-4803, and amendments thereto, and 15.26% to the judicial~~
2 ~~branch nonjudicial salary adjustment fund created by K.S.A. 2019 Supp.~~
3 ~~20-1a15, and amendments thereto.~~

4 ~~(2) On and after July 1, 2018,~~ Except as provided in subsection (d),
5 when the district or municipal court notifies the division of vehicles of a
6 failure to comply with a traffic citation pursuant to subsection (b), the
7 court shall assess a reinstatement fee of \$100 for each charge on which the
8 person failed to make satisfaction regardless of the disposition of the
9 charge for which such citation was originally issued and regardless of any
10 application for restricted driving privileges. Such reinstatement fee shall
11 be in addition to any fine, restricted driving privilege application fee,
12 district or municipal court costs and other penalties. The court shall remit
13 all reinstatement fees to the state treasurer in accordance with the
14 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
15 each such remittance, the state treasurer shall deposit the entire amount in
16 the state treasury and shall credit the first \$15 of such reinstatement fee to
17 the judicial branch nonjudicial salary adjustment fund and of the
18 remaining amount, 29.41% of such moneys to the division of vehicles
19 operating fund, 22.06% to the community alcoholism and intoxication
20 programs fund created by K.S.A. 41-1126, and amendments thereto,
21 7.36% to the juvenile alternatives to detention fund created by K.S.A. 79-
22 4803, and amendments thereto, and 41.17% to the judicial branch
23 nonjudicial salary adjustment fund created by K.S.A. 2019 Supp. 20-1a15,
24 and amendments thereto.

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

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

40 (f) Except as provided further, the reinstatement fee established in
41 this section shall be the only fee collected or moneys in the nature of a fee
42 collected for such reinstatement. Such fee shall only be established by an
43 act of the legislature and no other authority is established by law or

amendments made to this section by 2019 HB 2434 shall apply prospectively to citations issued on and after July 1, 2020

1 otherwise to collect a fee. ~~On and after July 1, 2017, through June 30,~~
2 ~~2019; On and after July 1, 2019, through June 30, 2025,~~ the supreme court
3 may impose an additional charge, not to exceed \$22 per reinstatement fee,
4 to fund the costs of non-judicial personnel.

5 *(g) A person's driving privilege or driver's license shall not be*
6 *suspended due to nonpayment of fines or court costs associated with a*
7 *traffic citation. ~~The provisions of this subsection shall apply retroactively~~*
8 *~~to a person whose driver's license was suspended before July 1, 2020, due~~*
9 *~~to nonpayment of fines or court costs associated with a traffic citation.~~*

10 Sec. 3. K.S.A. 2019 Supp. 8-2106, 8-2110 and 8-2110b are hereby
11 repealed.

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