AN ACT concerning drivers' licenses; relating to driving under the influence of alcohol or drugs; providing that the highway patrol has oversight of state certification ignition interlock manufacturers and their service providers; amending K.S.A. 8-1016 and K.S.A. 2019 Supp. 8-241, 8-1014 and 8-1015 and repealing the existing sections.

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

Section 1. K.S.A. 2019 Supp. 8-241 is hereby amended to read as follows: 8-241. (a) Except as provided in K.S.A. 8-2,125 through 8-2,142, and amendments thereto, any person licensed to operate a motor vehicle in this state shall submit to an examination whenever: (1) The division of vehicles has good cause to believe that such person is incompetent or otherwise not qualified to be licensed; or (2) the division of vehicles has suspended such person's license pursuant to K.S.A. 8-1014, and amendments thereto, as the result of a test refusal, test failure or conviction for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of a city ordinance or county resolution prohibiting the acts prohibited by K.S.A. 8-1567, and amendments thereto, except that no person shall have to submit to and successfully complete an examination more than once as the result of separate suspensions arising out of the same occurrence.

(b) When a person is required to submit to an examination pursuant to subsection (a)(1), the fee for such examination shall be in the amount provided by K.S.A. 8-240, and amendments thereto. When a person is required to submit to an examination pursuant to subsection (a)(2), the fee for such examination shall be $25. In addition, any person required to submit to an examination pursuant to subsection (a)(2) as the result of a test failure, a conviction for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of a city ordinance or county resolution prohibiting the acts prohibited by K.S.A. 8-1567, and amendments thereto, except that no person shall have to submit to and successfully complete an examination more than once as the result of separate suspensions arising out of the same occurrence.
(1) All examination fees collected pursuant to this section shall be remitted to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount in the state treasury and credit 80% to the state highway fund and 20% shall be disposed of as provided in K.S.A. 8-267, and amendments thereto.

(2) On and after July 1, 2014, through June 30, 2018, all reinstatement fees collected pursuant to this section shall be remitted to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount in the state treasury and credit 26% to the community alcoholism and intoxication programs fund created pursuant to K.S.A. 41-1126, and amendments thereto, 12% to the juvenile alternatives to detention fund created by K.S.A. 79-4803, and amendments thereto, 12% to the forensic laboratory and materials fee fund created by K.S.A. 28-176, and amendments thereto, 17% to the driving under the influence fund created by K.S.A. 75-5660, and amendments thereto, and 33% to the judicial branch nonjudicial salary adjustment fund created by K.S.A. 20-1a15, and amendments thereto. Moneys credited to the forensic laboratory and materials fee fund as provided herein shall be used to supplement existing appropriations and shall not be used to supplant general fund appropriations to the Kansas bureau of investigation.

(3) On and after July 1, 2018, all reinstatement fees collected pursuant to this section shall be remitted to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount in the state treasury and credit 35% to the community alcoholism and intoxication programs fund created pursuant to K.S.A. 41-1126, and amendments thereto, 20% to the juvenile alternatives to detention fund created by K.S.A. 79-4803, and amendments thereto, 20% to the forensic laboratory and materials fee fund created by K.S.A. 28-176, and amendments thereto, and 25% to the driving under the influence fund created by K.S.A. 75-5660, and amendments thereto. Moneys credited to the forensic laboratory and materials fee fund as provided herein shall be used to supplement existing appropriations and shall not be used to supplant general fund appropriations to the Kansas bureau of investigation.

(c) When an examination is required pursuant to subsection (a), at least five days' written notice of the examination shall be given to the licensee. The examination administered hereunder shall be at least equivalent to the examination required by K.S.A. 8-247(e), and amendments thereto, with such additional tests as the division deems necessary. Upon the conclusion of such examination, the division shall take action as may be appropriate and may suspend or revoke the license of such person or permit the licensee to retain such license, or may issue a
license subject to restrictions as permitted under K.S.A. 8-245, and amendments thereto.

(d) Refusal or neglect of the licensee to submit to an examination as required by this section shall be grounds for suspension or revocation of the license.

(e) The division may issue a driver's license with a DUI-IID designation for a licensee that is operating under ignition interlock restrictions required by K.S.A. 8-1014, and amendments thereto. The reexamination requirement in subsection (a)(2) shall not require reexamination and payment of reinstatement fees until the end of the licensee's ignition interlock restriction period. If the applicant's Kansas driver's license has been expired for one year or more, the applicant must complete a reexamination and pay any applicable reinstatement fees before qualifying for a driver's license with an ignition interlock designation. All other requirements for issuance and renewal of a driver's license under K.S.A. 8-240, and amendments thereto, shall continue to apply. The renewal periods and other requirements in K.S.A. 8-247, and amendments thereto, shall apply. The fees charged for the driver's license with ignition interlock designation shall include: (1) The fee amounts set out in K.S.A. 8-240(f), and amendments thereto; (2) fees prescribed by the secretary of revenue and required in K.S.A. 8-243(a), and amendments thereto; and (3) a $10 fee to the DUI-IID designation fund. There is hereby created in the state treasury the DUI-IID designation fund. All moneys credited to the DUI-IID designation fund shall be used by the department of revenue-highway patrol only for the purpose of funding the administration and oversight of state certified ignition interlock manufacturers and their service providers.

Sec. 2. K.S.A. 2019 Supp. 8-1014 is hereby amended to read as follows: 8-1014. (a) Except as provided by subsection (e) and K.S.A. 8-2,142, and amendments thereto, if a person refuses a test, the division, pursuant to K.S.A. 8-1002, and amendments thereto, shall:

(1) On the person's first occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for two years to driving only a motor vehicle equipped with an ignition interlock device;

(2) on the person's second occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for three years to driving only a motor vehicle equipped with an ignition interlock device;

(3) on the person's third occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for four years to driving only a motor vehicle equipped with an ignition interlock device;
(4) on the person's fourth occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for five years to driving only a motor vehicle equipped with an ignition interlock device; and

(5) on the person's fifth or subsequent occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for 10 years to driving only a motor vehicle equipped with an ignition interlock device.

(b) (1) Except as provided by subsections (b)(2) and (e) and K.S.A. 8-2,142, and amendments thereto, if a person fails a test or has an alcohol or drug-related conviction in this state, the division shall:

(A) On the person's first occurrence, suspend the person's driving privileges for 30 days and at the end of the suspension, restrict the person's driving privileges as provided by K.S.A. 8-1015(b), and amendments thereto;

(B) on the person's second occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for one year to driving only a motor vehicle equipped with an ignition interlock device;

(C) on the person's third occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for two years to driving only a motor vehicle equipped with an ignition interlock device;

(D) on the person's fourth occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for three years to driving only a motor vehicle equipped with an ignition interlock device; and

(E) on the person's fifth or subsequent occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for 10 years to driving only a motor vehicle equipped with an ignition interlock device.

(2) Except as provided by subsection (e) and K.S.A. 8-2,142, and amendments thereto, if a person fails a test or has an alcohol or drug-related conviction in this state and the person's blood or breath alcohol concentration is 0.15 or greater, the division shall:

(A) On the person's first occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for one year to driving only a motor vehicle equipped with an ignition interlock device;

(B) on the person's second occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for two years to driving only a motor vehicle equipped with an ignition interlock device;
(C) on the person's third occurrence, suspend the person's driving privileges for one year and at the end of the suspension restrict the person's driving privileges for three years to driving only a motor vehicle equipped with an ignition interlock device;

(D) on the person's fourth occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for four years to driving only a motor vehicle equipped with an ignition interlock device; and

(E) on the person's fifth or subsequent occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for 10 years to driving only a motor vehicle equipped with an ignition interlock device.

(3) Whenever a person's driving privileges have been restricted to driving only a motor vehicle equipped with an ignition interlock device for 10 years under this section, such person may petition any district court for relief from such restriction after five years of such restriction have been served. The court shall consider, but not be limited to, whether: (A) Such person's driving privileges have been restricted, suspended, revoked or disqualified pursuant to another action by the division or a court; and (B) such person proves installation, maintenance and use of an ignition interlock device approved by the division highway patrol throughout the five-year period. If the court finds that the person's driving privileges should be restored, then the court shall electronically report such order to the division. The division, upon receiving such order, shall restore such person's driving privileges, unless such person's driving privileges have been restricted, suspended, revoked or disqualified pursuant to another action by the division or a court.

(c) Except as provided by subsection (e) and K.S.A. 8-2,142, and amendments thereto, if a person who is less than 21 years of age fails a test or has an alcohol or drug-related conviction in this state, penalties shall be imposed pursuant to subsection (b).

(d) Whenever the division is notified by a provider, as defined in K.S.A. 8-1008, and amendments thereto, or a court that the person has failed to follow any recommendation made by the provider or otherwise ordered by a court for a conviction of a violation of K.S.A. 8-1567, and amendments thereto, the division shall suspend the person's driving privileges until the division receives notice of the person's completion of such recommendation.

(e) Except as provided in K.S.A. 8-2,142, and amendments thereto, if a person's driving privileges are subject to suspension pursuant to this section for a test refusal, test failure or alcohol or drug-related conviction arising from the same arrest, the period of such suspension shall not exceed the longest applicable period authorized by subsection (a) or (b),
and such suspension periods shall not be added together or otherwise imposed consecutively. In addition, in determining the period of such suspension as authorized by subsection (a) or (b), such person shall receive credit for any period of time for which such person's driving privileges were suspended while awaiting any hearing or final order authorized by this act.

If a person's driving privileges are subject to restriction pursuant to this section for a test failure or alcohol or drug-related conviction arising from the same arrest, the restriction periods shall not be added together or otherwise imposed consecutively. In addition, in determining the period of restriction, the person shall receive credit for any period of suspension imposed for a test refusal arising from the same arrest.

(f) If the division has taken action under subsection (a) for a test refusal or under subsection (b) for a test failure and such action is stayed pursuant to K.S.A. 8-259, and amendments thereto, or if temporary driving privileges are issued pursuant to K.S.A. 8-1020, and amendments thereto, the stay or temporary driving privileges shall not prevent the division from taking the action required by subsection (b) for an alcohol or drug-related conviction.

(g) The provisions of subsections (a), (b) and (c), as amended by this act and section 14 of chapter 105 of the 2011 Session Laws of Kansas, may be applied retroactively only if requested by a person who has had such person's driving privileges suspended or restricted pursuant to subsection (a), (b) or (c) prior to such amendment. Such person may apply to the division to have the penalties applied retroactively, as provided under K.S.A. 8-1015(g), and amendments thereto.

(h) When modifying penalties pursuant to subsection (g), the division shall credit any suspension or revocation time in excess of one year which was imposed and served prior to retroactive application of the provisions of subsections (a), (b) and (c), as amended by this act and section 14 of chapter 105 of the 2011 Session Laws of Kansas, toward the required ignition interlock restriction period imposed pursuant to the retroactive application of such provisions if: (1) The person's driving record indicates no driving by the person during the applicable suspension or revocation period; and (2) the person completes a form prescribed by the division indicating that the person did not drive during the applicable suspension or revocation period.

(i) As used in this section, "suspension" includes any period of suspension and any period of restriction as provided in K.S.A. 8-1015(a), and amendments thereto.

Sec. 3. K.S.A. 2019 Supp. 8-1015 is hereby amended to read as follows: 8-1015. (a) (1) Except as provided in subsection (a)(2), whenever a person's driving privileges have been suspended for one year as provided
in K.S.A. 8-1014(a), and amendments thereto, after 90 days of such suspension, such person may apply to the division for such person's driving privileges to be restricted for the remainder of the one-year suspension period to driving only a motor vehicle equipped with an ignition interlock device and only for the purposes of getting to and from: Work, school or an alcohol treatment program; and the ignition interlock provider for maintenance and downloading of data from the device.

(2) Whenever a person's driving privileges have been suspended for one year as provided in K.S.A. 8-1014(a)(1), and amendments thereto, after 90 days of such suspension, such person may apply to the division for such person's driving privileges to be restricted for the remainder of the one-year suspension period to driving only a motor vehicle equipped with an ignition interlock device and only: Under the circumstances provided by K.S.A. 8-292(a)(1), (2), (3) and (4), and amendments thereto; and for the purpose of getting to and from the ignition interlock provider for maintenance and downloading of data from the device.

(3) Except as provided in subsection (a)(4), whenever a person's driving privileges have been suspended for one year as provided in K.S.A. 8-1014(b), and amendments thereto, after 45 days of such suspension, such person may apply to the division for such person's driving privileges to be restricted for the remainder of the one-year suspension period to driving only a motor vehicle equipped with an ignition interlock device and only for the purposes of getting to and from: Work, school or an alcohol treatment program; and the ignition interlock provider for maintenance and downloading of data from the device.

(4) Whenever a person's driving privileges have been suspended for one year as provided in K.S.A. 8-1014(b)(2)(A), and amendments thereto, after 45 days of such suspension, such person may apply to the division for such person's driving privileges to be restricted for the remainder of the one-year suspension period to driving only a motor vehicle equipped with an ignition interlock device and only: Under the circumstances provided by K.S.A. 8-292(a)(1), (2), (3) and (4), and amendments thereto; and for the purpose of getting to and from the ignition interlock provider for maintenance and downloading of data from the device.

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

(6) 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 for 180 days to driving only a motor vehicle equipped with an
ignition interlock device.

(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) Whenever an ignition interlock device is required by law, such
ignition interlock device shall be approved by the division 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. 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 rules and regulations adopted by the
secretary of revenue and proof of completion shall be provided to the
division by the approved service provider before the person's driving
privileges are fully reinstated.

(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) or (a)(3).

(f) Upon expiration of the period of time for which restrictions are
imposed pursuant to this section, 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.

Sec. 4. K.S.A. 8-1016 is hereby amended to read as follows: 8-1016.
(a) (1) The secretary of revenue, superintendent of the highway patrol may
adopt rules and regulations for:
(1)(A) The approval by the division highway patrol of models and classes of ignition interlock devices suitable for use by persons whose driving privileges have been restricted to driving a vehicle equipped with such a device;

(2)(B) the calibration and maintenance of such devices, which shall be the responsibility of the manufacturer; and

(3)(C) ensuring that each manufacturer approved provides a reasonable statewide service network where such devices may be obtained, repaired, replaced or serviced and such service network can be accessed 24 hours per day through a toll-free phone service.

(2) In adopting rules and regulations for approval of ignition interlock devices under this section, the secretary of revenue superintendent of the highway patrol shall require that the manufacturer or the manufacturer's representatives calibrate and maintain the devices at intervals not to exceed 60 days. Calibration and maintenance shall include, but not be limited to: Physical inspection of the device, the vehicle and wiring of the device to the vehicle for signs of tampering; calibration of the device and downloading of all data contained within the device's memory; and reporting of any violation or noncompliance to the division highway patrol.

(4)(3) The division shall adopt by rules and regulations participant requirements for proper use and maintenance of a certified ignition interlock device during any time period the person's license is restricted by the division to only operating a motor vehicle with an ignition interlock device installed and by rules and regulations the reporting requirements of the approved manufacturer to the division relating to the person's proper use and maintenance of a certified ignition interlock device.

(5)(4) The division highway patrol shall require that each manufacturer provide a credit of at least 2% of the gross program revenues in the state as a credit for those persons who have otherwise qualified to obtain an ignition interlock restricted license under this act who are indigent as evidenced by qualification and eligibility for the federal food stamp program.

(b) If the division highway patrol approves an ignition interlock device in accordance with rules and regulations adopted under this section, the division highway patrol shall give written notice of the approval to the manufacturer of the device. Such notice shall be admissible in any civil or criminal proceeding in this state.

(c) The manufacturer of an ignition interlock device shall reimburse the division highway patrol for any cost incurred in approving or disapproving such device under this section.

(d) Neither the state nor any agency, officer or employee thereof shall be liable in any civil or criminal proceeding arising out of the use of an
ignition interlock device approved under this section.

(e) All rules and regulations of either the secretary of revenue or the division of vehicles adopted pursuant to this section that are in effect on June 30, 2020, shall be deemed to be the rules and regulations of the superintendent of the highway patrol and shall continue to be effective until amended, revoked or nullified pursuant to law.

Sec. 5. K.S.A. 8-1016 and K.S.A. 2019 Supp. 8-241, 8-1014 and 8-1015 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.