

## HOUSE BILL No. 2045

By Committee on Corrections and Juvenile Justice

1-22

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1 AN ACT concerning driving privileges; imposing school attendance and  
2 minimum grade point average requirements upon certain persons;  
3 amending K.S.A. 2012 Supp. 8-255 and repealing the existing section.  
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) The division of vehicles of the department of  
7 revenue shall not issue any driver's license under the provisions of K.S.A.  
8 2012 Supp. 8-2,101 or K.S.A. 8-2,147, and amendments thereto, farm  
9 permit under the provisions of K.S.A. 8-296, and amendments thereto, or  
10 instruction permit under the provisions of K.S.A. 8-239 or K.S.A. 2012  
11 Supp. 8-2,100 and amendments thereto, for the operation of a motor  
12 vehicle to any person who is less than 20 years of age and who, at the time  
13 of making application for such license or permit, does not submit  
14 documentation that the person holds a diploma or other certificate of  
15 graduation issued to the person from a secondary school of this state or  
16 any other state, or that the person holds a general educational development  
17 (GED) certificate from a state approved institution or organization, or that  
18 the person: (1) Is enrolled in, attending and making satisfactory progress in  
19 school; or (2) is excused from such requirement due to circumstances  
20 beyond such person's control.

21 (b) Upon request, an attendance director or principal shall provide  
22 documentation of enrollment and attendance status on a form approved by  
23 the state board of education to any prospective student driver who is  
24 properly enrolled in and attending a school under the jurisdiction of such  
25 attendance director or principal for submission to the division of vehicles  
26 on application for or reinstatement of a driver's license or an instruction  
27 permit to operate a motor vehicle.

28 (c) Whenever a student driver withdraws from school, except as  
29 provided in subsection (e), the attendance director or principal shall notify  
30 the division of vehicles of such withdrawal. Within 10 days of receipt of  
31 such notice, the division of vehicles shall send notice to the student driver  
32 that the student driver's driving privileges will be restricted for 30 days in  
33 accordance with K.S.A.8-296 or K.S.A. 2012 Supp. 8-2,101, and  
34 amendments thereto. If the student driver can provide documentation to  
35 the division that:

36 (1) The student has applied for a general educational development

1 (GED) certificate from a state approved institution or organization; or  
2 (2) the student has been employed on a full-time basis, then the  
3 student driver shall be eligible to receive a driver's license which is  
4 restricted in accordance with K.S.A. 2012 Supp. 8-2,101, and amendments  
5 thereto, until the student reaches 20 years of age.

6 If the student driver does not comply with paragraphs (1) or (2) of this  
7 subsection, such student driver's driving privileges shall be suspended  
8 until the student driver is 20 years of age.

9 (d) When any student driver who is 19 years of age or less, who has  
10 not been issued a driver's license by the division of vehicles withdraws  
11 from school, the attendance director or principal shall notify the division  
12 of vehicles of such withdrawal and if the student driver complies with the  
13 provisions of paragraphs (1) or (2) of subsection (c), such student driver  
14 shall be eligible to receive a driver's license which is restricted in  
15 accordance with K.S.A. 2012 Supp. 8-2,101, and amendments thereto,  
16 until the student is 20 years of age.

17 If the student does not comply with paragraphs (1) or (2) of subsection  
18 (c), such unlicensed student driver's privilege of obtaining a driver's  
19 license issued by the division of vehicles shall be revoked or suspended  
20 until the student is 20 years of age.

21 (e) Whenever a student driver withdraws from school of a student  
22 driver, or such student driver fails to enroll in and attend school, and these  
23 circumstances are beyond the control of the student driver, or the student  
24 driver transfers to another school as confirmed in writing by the student  
25 driver's parent or guardian, no notice shall be sent to the division of  
26 vehicles to suspend the student driver's driving privileges. The attendance  
27 director or principal shall provide the student driver with documentation to  
28 present to the division of vehicles to excuse such student driver from the  
29 school attendance requirements of this section. A school district  
30 superintendent or a like official of any school, with the assistance of any  
31 other staff or school personnel, shall be the sole judge of whether  
32 withdrawal from school is due to circumstances beyond the control of a  
33 student driver. Suspension or expulsion from school or imprisonment in a  
34 jail or a penitentiary is not a circumstance beyond the control of a student  
35 driver.

36 (f) As used in this section:

37 (1) "Student driver" means a person who is: (A) At least 14 years of  
38 age and less than 18 years of age; and (B) properly enrolled in and  
39 attending school or excused from the school attendance requirements of  
40 this section.

41 (2) "School" means: (A) A public or nonpublic school operating in  
42 this state and attendance at which satisfies the requirements of K.S.A. 72-  
43 1111, and amendments thereto; (B) a special education program provided

1 for under the laws of this state; (C) an area vocational school or area  
2 vocational-technical school; (D) a program of instruction designed to  
3 prepare persons for general educational development (GED) examinations  
4 and credentials; (E) an adult basic education program established and  
5 operating under the laws of this state; (F) a regularly supervised program  
6 of instruction approved by the state board of education under subsection  
7 (g) of K.S.A. 72-1111, and amendments thereto; (G) a community college  
8 organized and operating under the laws of this state; (I) the job  
9 preparation, training and education component of the KanWork program  
10 under K.S.A. 39-7,105, and amendments thereto; (J) a proprietary school  
11 operating under a certificate of approval issued by the state board of  
12 education; or (K) a non-accredited private school as described in K.S.A.  
13 72-53,100 et seq., and amendments thereto.

14 (3) "Withdrawal from school" or "withdraws from school" means  
15 more than 10 consecutive days or 15 days total unexcused absences from  
16 school during a single semester or other term.

17 (4) "Making satisfactory progress in school" means that the student  
18 driver is maintaining a minimum grade point average of 2.0 on a 4.0 scale  
19 for the previous semester or similar equivalent grading period for which  
20 grades are recorded as part of the student's permanent record.

21 Sec. 2. K.S.A. 2012 Supp. 8-255 is hereby amended to read as  
22 follows: 8-255. (a) The division is authorized to restrict, suspend or revoke  
23 a person's driving privileges upon a showing by its records or other  
24 sufficient evidence the person:

25 (1) Has been convicted with such frequency of serious offenses  
26 against traffic regulations governing the movement of vehicles as to  
27 indicate a disrespect for traffic laws and a disregard for the safety of other  
28 persons on the highways;

29 (2) has been convicted of three or more moving traffic violations  
30 committed on separate occasions within a 12-month period;

31 (3) is incompetent to drive a motor vehicle;

32 (4) has been convicted of a moving traffic violation, committed at a  
33 time when the person's driving privileges were restricted, suspended or  
34 revoked; or

35 (5) is a member of the armed forces of the United States stationed at a  
36 military installation located in the state of Kansas, and the authorities of  
37 the military establishment certify that such person's on-base driving  
38 privileges have been suspended, by action of the proper military  
39 authorities, for violating the rules and regulations of the military  
40 installation governing the movement of vehicular traffic or for any other  
41 reason relating to the person's inability to exercise ordinary and reasonable  
42 control in the operation of a motor vehicle.

43 (b) (1) The division shall:

1 (A) Suspend a person's driving privileges:

2 (i) When required by K.S.A. 8-262, 8-1014 or 41-727 *or section 1,*  
3 and amendments thereto;

4 (ii) upon a person's second conviction of theft, as defined in  
5 subsection (a)(5) of K.S.A. 2012 Supp. 21-5801, and amendments thereto,  
6 for six months; and

7 (iii) upon a person's third or subsequent conviction of theft, as  
8 defined in subsection (a)(5) of K.S.A. 2012 Supp. 21-5801, and  
9 amendments thereto, for one year;

10 (B) disqualify a person's privilege to drive commercial motor vehicles  
11 when required by K.S.A. 8-2,142, and amendments thereto; and

12 (C) restrict a person's driving privileges when required by K.S.A.  
13 2012 Supp. 39-7,155, and amendments thereto.

14 (2) As used in this subsection, "conviction" means a final conviction  
15 without regard to whether the sentence was suspended or probation  
16 granted after such conviction. Forfeiture of bail, bond or collateral  
17 deposited to secure a defendant's appearance in court, which forfeiture has  
18 not been vacated, shall be equivalent to a conviction. "Conviction"  
19 includes being convicted of a violation of K.S.A. 21-3765, prior to its  
20 repeal, or subsection (a)(5) of K.S.A. 2012 Supp. 21-5801, and  
21 amendments thereto.

22 (c) When the action by the division restricting, suspending, revoking  
23 or disqualifying a person's driving privileges is based upon a report of a  
24 conviction or convictions from a convicting court, the person may not  
25 request a hearing but, within 30 days after notice of restriction, suspension,  
26 revocation or disqualification is mailed, may submit a written request for  
27 administrative review and provide evidence to the division to show the  
28 person whose driving privileges have been restricted, suspended, revoked  
29 or disqualified by the division was not convicted of the offense upon  
30 which the restriction, suspension, revocation or disqualification is based.  
31 Within 30 days of its receipt of the request for administrative review, the  
32 division shall notify the person whether the restriction, suspension,  
33 revocation or disqualification has been affirmed or set aside. The request  
34 for administrative review shall not stay any action taken by the division.

35 (d) Upon restricting, suspending, revoking or disqualifying the  
36 driving privileges of any person as authorized by this act, the division shall  
37 immediately notify the person in writing. Except as provided by K.S.A. 8-  
38 1002 and 8-2,145, and amendments thereto, and subsections (c) and (g), if  
39 the person makes a written request for hearing within 30 days after such  
40 notice of restriction, suspension or revocation is mailed, the division shall  
41 afford the person an opportunity for a hearing as early as practical not  
42 sooner than five days nor more than 30 days after such request is mailed. If  
43 the division has not revoked or suspended the person's driving privileges

1 or vehicle registration prior to the hearing, the hearing may be held within  
2 not to exceed 45 days. Except as provided by K.S.A. 8-1002 and 8-2,145,  
3 and amendments thereto, the hearing shall be held in the person's county of  
4 residence or a county adjacent thereto, unless the division and the person  
5 agree that the hearing may be held in some other county. Upon the hearing,  
6 the director or the director's duly authorized agent may administer oaths  
7 and may issue subpoenas for the attendance of witnesses and the  
8 production of relevant books and papers and may require an examination  
9 or reexamination of the person. When the action proposed or taken by the  
10 division is authorized but not required, the division, upon the hearing, shall  
11 either rescind or affirm its order of restriction, suspension or revocation or,  
12 good cause appearing therefor, extend the restriction or suspension of the  
13 person's driving privileges, modify the terms of the restriction or  
14 suspension or revoke the person's driving privileges. When the action  
15 proposed or taken by the division is required, the division, upon the  
16 hearing, shall either affirm its order of restriction, suspension, revocation  
17 or disqualification, or, good cause appearing therefor, dismiss the  
18 administrative action. If the person fails to request a hearing within the  
19 time prescribed or if, after a hearing, the order of restriction, suspension,  
20 revocation or disqualification is upheld, the person shall surrender to the  
21 division, upon proper demand, any driver's license in the person's  
22 possession.

23 (e) In case of failure on the part of any person to comply with any  
24 subpoena issued on behalf of the division or the refusal of any witness to  
25 testify to any matters regarding which the witness may be lawfully  
26 interrogated, the district court of any county, on application of the division,  
27 may compel obedience by proceedings for contempt, as in the case of  
28 disobedience of the requirements of a subpoena issued from the court or a  
29 refusal to testify in the court. Each witness who appears before the director  
30 or the director's duly authorized agent by order or subpoena, other than an  
31 officer or employee of the state or of a political subdivision of the state,  
32 shall receive for the witness' attendance the fees and mileage provided for  
33 witnesses in civil cases in courts of record, which shall be audited and paid  
34 upon the presentation of proper vouchers sworn to by the witness.

35 (f) The division, in the interest of traffic and safety, may establish or  
36 contract with a private individual, corporation, partnership or association  
37 for the services of driver improvement clinics throughout the state and,  
38 upon reviewing the driving record of a person whose driving privileges are  
39 subject to suspension under subsection (a)(2), may permit the person to  
40 retain such person's driving privileges by attending a driver improvement  
41 clinic. Any person other than a person issued a commercial driver's license  
42 under K.S.A. 8-2,125 et seq., and amendments thereto, desiring to attend a  
43 driver improvement clinic shall make application to the division and such

1 application shall be accompanied by the required fee. The secretary of  
2 revenue shall adopt rules and regulations prescribing a driver's  
3 improvement clinic fee which shall not exceed \$500 and such rules and  
4 regulations deemed necessary for carrying out the provisions of this  
5 section, including the development of standards and criteria to be utilized  
6 by such driver improvement clinics. Amounts received under this  
7 subsection shall be remitted to the state treasurer in accordance with the  
8 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of  
9 each such remittance, the state treasurer shall deposit the same in the state  
10 treasury as prescribed by subsection (f) of K.S.A. 8-267, and amendments  
11 thereto.

12 (g) When the action by the division restricting a person's driving  
13 privileges is based upon certification by the secretary of social and  
14 rehabilitation services pursuant to K.S.A. 2012 Supp. 39-7,155, and  
15 amendments thereto, the person may not request a hearing but, within 30  
16 days after notice of restriction is mailed, may submit a written request for  
17 administrative review and provide evidence to the division to show the  
18 person whose driving privileges have been restricted by the division is not  
19 the person certified by the secretary of social and rehabilitation services,  
20 did not receive timely notice of the proposed restriction from the secretary  
21 of social and rehabilitation services or has been decertified by the secretary  
22 of social and rehabilitation services. Within 30 days of its receipt of the  
23 request for administrative review, the division shall notify the person  
24 whether the restriction has been affirmed or set aside. The request for  
25 administrative review shall not stay any action taken by the division.

26 (h) Any person whose driving privileges have been suspended under  
27 subsection (b)(1)(A)(ii) or (b)(1)(A)(iii), shall pay a reinstatement fee in  
28 the amount of \$100 to the division. The division shall remit all revenues  
29 received from such fees, at least monthly, to the state treasurer in  
30 accordance with the provisions of K.S.A. 75-4215, and amendments  
31 thereto, for deposit in the state treasury and credit to the state highway  
32 fund.

33 Sec. 3. K.S.A. 2012 Supp. 8-255 is hereby repealed.

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