

As Amended by House Committee

Session of 2015

HOUSE BILL No. 2040

By Committee on Judiciary

1-16

1 AN ACT concerning driving; relating to driving while license canceled,  
2 suspended or revoked; amending K.S.A. 2014 Supp. 8-262 and  
3 repealing the existing section.  
4

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

6 Section 1. K.S.A. 2014 Supp. 8-262 is hereby amended to read as  
7 follows: 8-262. (a) (1) Any person who drives a motor vehicle on any  
8 highway of this state at a time when such person's privilege so to do is  
9 canceled, suspended or revoked or while such person's privilege to obtain  
10 a driver's license is suspended or revoked pursuant to K.S.A. 8-252a, and  
11 amendments thereto, shall be guilty of a class B nonperson misdemeanor  
12 on the first conviction and a class A nonperson misdemeanor on the second  
13 or subsequent conviction.

14 (2) No person shall be convicted under this section if such person was  
15 entitled at the time of arrest under K.S.A. 8-257, and amendments thereto,  
16 to the return of such person's driver's license.

17 (3) Except as otherwise provided by subsection (a)(4) or (c), every  
18 person convicted under this section shall be sentenced to at least five days'  
19 imprisonment and fined at least \$100 and upon a second conviction shall  
20 not be eligible for parole until completion of five days' imprisonment.

21 (4) Except as otherwise provided by subsection (c), if a person: (A) Is  
22 convicted of a violation of this section, committed while the person's  
23 privilege to drive or privilege to obtain a driver's license was suspended or  
24 revoked for a violation of K.S.A. 8-2,144 or 8-1567 or K.S.A. 2014 Supp.  
25 8-1025, and amendments thereto, or any ordinance of any city or  
26 resolution of any county or a law of another state, which ordinance or  
27 resolution or law prohibits the acts prohibited by those statutes; and (B) is  
28 or has been also convicted of a violation of K.S.A. 8-2,144 or 8-1567 or  
29 K.S.A. 2014 Supp. 8-1025, and amendments thereto, or any ordinance of  
30 any city or resolution of any county or law of another state, which  
31 ordinance or resolution or law prohibits the acts prohibited by those  
32 statutes, committed while the person's privilege to drive or privilege to  
33 obtain a driver's license was so suspended or revoked, the person shall not  
34 be eligible for suspension of sentence, probation or parole until the person  
35 has served at least 90 days' imprisonment, and any fine imposed on such  
36 person shall be in addition to such a term of imprisonment.

1       (5) *For the purposes of determining whether a conviction is a first,*  
2 *second or subsequent conviction in sentencing under this subsection, only*  
3 *convictions occurring in the immediately preceding five years, including*  
4 *prior to July 1, 2015, shall be taken into account.*

5       (b) The division, upon receiving a record of the conviction of any  
6 person under this section, or any ordinance of any city or resolution of any  
7 county or a law of another state which is in substantial conformity with  
8 this section, upon a charge of driving a vehicle while the license of such  
9 person is revoked or suspended, shall extend the period of such suspension  
10 or revocation for an additional period of 90 days.

11       (c) (1) The person found guilty of a class A nonperson misdemeanor  
12 on a third or subsequent conviction of this section shall be sentenced to not  
13 less than 90 days' imprisonment and fined not less than \$1,500 if such  
14 person's privilege to drive a motor vehicle is canceled, suspended or  
15 revoked because such person:

16       ~~(A) Refused to submit and complete any test of blood, breath or urine~~  
17 ~~requested by law enforcement excluding the preliminary screening test as~~  
18 ~~set forth in K.S.A. 8-1012, and amendments thereto;~~

19       **(B)—(A) Refused to submit and complete any test of blood,**  
20 **breath or urine requested by law enforcement excluding the**  
21 **preliminary screening test as set forth in K.S.A. 8-1012, and**  
22 **amendments thereto; or**

23       **(B)** was convicted of violating the provisions of K.S.A. 40-3104, and  
24 amendments thereto, relating to motor vehicle liability insurance  
25 coverage; *For the purposes of determining whether a conviction is a first,*  
26 *second, third or subsequent conviction in sentencing under this*  
27 *paragraph, only convictions occurring on or after July 1, 2001, shall be*  
28 *taken into account.*

29       ~~(C)~~ (2) *The person found guilty of a class A nonperson misdemeanor*  
30 *on a third or subsequent conviction of this section shall be sentenced to*  
31 *not less than 90 days' imprisonment and fined not less than \$1,500 if such*  
32 *person's privilege to drive a motor vehicle is canceled, suspended or*  
33 *revoked because such person:*

34       (A) Was convicted of vehicular homicide, K.S.A. 21-3405, prior to its  
35 repeal, or K.S.A. 2014 Supp. 21-5406, and amendments thereto,  
36 involuntary manslaughter while driving under the influence of alcohol or  
37 drugs, K.S.A. 21-3442, prior to its repeal, or involuntary manslaughter as  
38 defined in ~~subsection (a)(3) of~~ K.S.A. 2014 Supp. 21-5405(a)(3), and  
39 amendments thereto, or any other murder or manslaughter crime resulting  
40 from the operation of a motor vehicle; or

41       ~~(D)~~ (B) was convicted of being a habitual violator, K.S.A. 8-287, and  
42 amendments thereto. *For the purposes of determining whether a*  
43 *conviction is a first, second, third or subsequent conviction in sentencing*

1 *under this paragraph, all convictions occurring during a person's lifetime*  
2 *shall be taken into account.*

3 ~~(2)~~ (3) The person convicted shall not be eligible for release on  
4 probation, suspension or reduction of sentence or parole until the person  
5 has served at least 90 days' imprisonment. The 90 days' imprisonment  
6 mandated by this subsection may be served in a work release program only  
7 after such person has served 48 consecutive hours' imprisonment, provided  
8 such work release program requires such person to return to confinement  
9 at the end of each day in the work release program. The court may place  
10 the person convicted under a house arrest program pursuant to K.S.A.  
11 2014 Supp. 21-6609, and amendments thereto, or any municipal ordinance  
12 to serve the remainder of the minimum sentence only after such person has  
13 served 48 consecutive hours' imprisonment.

14 (d) For the purposes of determining whether a conviction is a first,  
15 second, third or subsequent conviction in sentencing under this section,  
16 "conviction" includes a conviction of a violation of any ordinance of any  
17 city or resolution of any county or a law of another state which is in  
18 substantial conformity with this section.

19 Sec. 2. K.S.A. 2014 Supp. 8-262 is hereby repealed.

20 Sec. 3. This act shall take effect and be in force from and after its  
21 publication in the statute book.