

SENATE BILL No. 23

By Committee on Judiciary

1-14

1 AN ACT concerning driving; relating to **driving while license is**
2 **canceled, suspended or revoked**; authorized restrictions of driving
3 privileges; ignition interlock device; amending K.S.A. 2014 Supp. 8-
4 **262 and 8-1015 and repealing the existing section sections.**

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

7 **Section 1. K.S.A. 2014 Supp. 8-262 is hereby amended to read as**
8 **follows: 8-262. (a) (1) Any person who drives a motor vehicle on any**
9 **highway of this state at a time when such person's privilege so to do is**
10 **canceled, suspended or revoked or while such person's privilege to**
11 **obtain a driver's license is suspended or revoked pursuant to K.S.A. 8-**
12 **252a, and amendments thereto, shall be guilty of a class B nonperson**
13 **misdemeanor on the first conviction and a class A nonperson**
14 **misdemeanor on the second or subsequent conviction. Except as**
15 *otherwise provided in subsection (a)(4) or (c), for the purposes of*
16 *determining whether a conviction is a first, second or subsequent*
17 *conviction in sentencing under this section, only convictions occurring in*
18 *the immediately preceding five years, including prior to July 1, 2015, shall*
19 *be taken into account.*

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

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

28 **(4) Except as otherwise provided by subsection (c), if a person:**
29 **(A) Is convicted of a violation of this section, committed while the**
30 **person's privilege to drive or privilege to obtain a driver's license was**
31 **suspended or revoked for a violation of K.S.A. 8-2,144 or 8-1567 or**
32 **K.S.A. 2014 Supp. 8-1025, and amendments thereto, or any ordinance**
33 **of any city or resolution of any county or a law of another state, which**
34 **ordinance or resolution or law prohibits the acts prohibited by those**
35 **statutes; and (B) is or has been also convicted of a violation of K.S.A.**
36 **8-2,144 or 8-1567 or K.S.A. 2014 Supp. 8-1025, and amendments**

1 thereto, or any ordinance of any city or resolution of any county or
2 law of another state, which ordinance or resolution or law prohibits
3 the acts prohibited by those statutes, committed while the person's
4 privilege to drive or privilege to obtain a driver's license was so
5 suspended or revoked, the person shall not be eligible for suspension
6 of sentence, probation or parole until the person has served at least 90
7 days' imprisonment, and any fine imposed on such person shall be in
8 addition to such a term of imprisonment. *For the purposes of*
9 *determining whether a conviction is a first, second or subsequent*
10 *conviction in sentencing under this paragraph, all convictions occurring*
11 *during a person's lifetime shall be taken into account.*

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

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

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

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

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

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

40 (B) **was convicted of vehicular homicide, K.S.A. 21-3405, prior to**
41 **its repeal, or K.S.A. 2014 Supp. 21-5406, and amendments thereto,**
42 **involuntary manslaughter while driving under the influence of alcohol**
43 **or drugs, K.S.A. 21-3442, prior to its repeal, or involuntary**

1 **manslaughter as defined in ~~subsection (a)(3)~~ of K.S.A. 2014 Supp. 21-**
2 **5405(a)(3), and amendments thereto, or any other murder or**
3 **manslaughter crime resulting from the operation of a motor vehicle;**
4 **or**

5 **~~(D)~~(C) was convicted of being a habitual violator, K.S.A. 8-287,**
6 **and amendments thereto. For the purposes of determining whether a**
7 **conviction is a first, second, third or subsequent conviction in sentencing**
8 **under this paragraph, all convictions occurring during a person's lifetime**
9 **shall be taken into account.**

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

22 **(d) For the purposes of determining whether a conviction is a**
23 **first, second, third or subsequent conviction in sentencing under this**
24 **section, "conviction" includes a conviction of a violation of any**
25 **ordinance of any city or resolution of any county or a law of another**
26 **state which is in substantial conformity with this section.**

27 **~~Section 1.~~ Sec. 2.** K.S.A. 2014 Supp. 8-1015 is hereby amended to
28 read as follows: 8-1015. (a) (1) Except as provided in subsection (a)(2),
29 whenever a person's driving privileges have been suspended for one year
30 as provided in ~~subsection (a)~~ of K.S.A. 8-1014(a), and amendments
31 thereto, after 90 days of such suspension, such person may apply to the
32 division for such person's driving privileges to be restricted for the
33 remainder of the one-year suspension period to driving only a motor
34 vehicle equipped with an ignition interlock device and only for the
35 purposes of getting to and from: Work, school or an alcohol treatment
36 program; and the ignition interlock provider for maintenance and
37 downloading of data from the device.

38 (2) Whenever a person's driving privileges have been suspended for
39 one year as provided in ~~subsection (a)(1)~~ of K.S.A. 8-1014(a)(1), and
40 amendments thereto, after 90 days of such suspension, such person may
41 apply to the division for such person's driving privileges to be restricted
42 for the remainder of the one-year suspension period to driving only a
43 motor vehicle equipped with an ignition interlock device and only under

1 the circumstances provided by ~~subsections (a)(1), (2), (3) and (4) of~~
2 K.S.A. 8-292(a)(1), (2), (3) and (4), and amendments thereto; *and getting*
3 *to and from the ignition interlock provider for maintenance and*
4 *downloading of data from the device.*

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

14 (4) Whenever a person's driving privileges have been suspended for
15 one year as provided in ~~subsection (b)(2)(A) of~~ K.S.A. 8-1014(b)(2)(A),
16 and amendments thereto, after 45 days of such suspension, such person
17 may apply to the division for such person's driving privileges to be
18 restricted for the remainder of the one-year suspension period to driving
19 only a motor vehicle equipped with an ignition interlock device and only
20 under the circumstances provided by ~~subsections (a)(1), (2), (3) and (4) of~~
21 K.S.A. 8-292(a)(1), (2), (3) and (4), and amendments thereto; *and getting*
22 *to and from the ignition interlock provider for maintenance and*
23 *downloading of data from the device.*

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

26 (6) The division shall approve the request for such restricted license
27 unless such person's driving privileges have been restricted, suspended,
28 revoked or disqualified pursuant to another action by the division or a
29 court. If the request is approved, upon receipt of proof of the installation of
30 such device, the division shall issue a copy of the order imposing such
31 restrictions on the person's driving privileges and such order shall be
32 carried by the person at any time the person is operating a motor vehicle
33 on the highways of this state. Except as provided in K.S.A. 8-1017, and
34 amendments thereto, if such person is convicted of a violation of the
35 restrictions, such person's driving privileges shall be suspended for an
36 additional year, in addition to any term of suspension or restriction as
37 provided in ~~subsection (a) or (b) of~~ K.S.A. 8-1014(a) or (b), and
38 amendments thereto.

39 (b) (1) Except as provided in subsection (b)(2), when a person has
40 completed the suspension pursuant to ~~subsection (b)(1)(A) of~~ K.S.A. 8-
41 1014(b)(1)(A), and amendments thereto, the division shall restrict the
42 person's driving privileges for 180 days to driving only a motor vehicle
43 equipped with an ignition interlock device.

1 (2) When a person has completed the suspension pursuant to
2 ~~subsection (b)(1)(A) of K.S.A. 8-1014(b)(1)(A)~~, and amendments thereto,
3 the division shall restrict the person's driving privileges for one year to
4 driving only a motor vehicle equipped with an ignition interlock device if
5 the records maintained by the division indicate that such person has
6 previously: (A) Been convicted of a violation of K.S.A. 8-1599, and
7 amendments thereto; (B) been convicted of a violation of K.S.A. 41-727,
8 and amendments thereto; (C) been convicted of any violations listed in
9 ~~subsection (a) of K.S.A. 8-285(a)~~, and amendments thereto; (D) been
10 convicted of three or more moving traffic violations committed on separate
11 occasions within a 12-month period; or (E) had such person's driving
12 privileges revoked, suspended, canceled or withdrawn.

13 (c) Except as provided in subsection (b), when a person has
14 completed the suspension pursuant to ~~subsection (a) or (b) of K.S.A. 8-~~
15 ~~1014(a) or (b)~~, and amendments thereto, the division shall restrict the
16 person's driving privileges pursuant to ~~subsection (a) or (b) of K.S.A. 8-~~
17 ~~1014(a) or (b)~~, and amendments thereto, to driving only a motor vehicle
18 equipped with an ignition interlock device. Upon restricting a person's
19 driving privileges pursuant to this subsection, the division shall issue a
20 copy of the order imposing the restrictions which is required to be carried
21 by the person at any time the person is operating a motor vehicle on the
22 highways of this state.

23 (d) Whenever an ignition interlock device is required by law, such
24 ignition interlock device shall be approved by the division and maintained
25 at the person's expense. Proof of the installation of such ignition interlock
26 device, for the entire period required by the applicable law, shall be
27 provided to the division before the person's driving privileges are fully
28 reinstated.

29 (e) Except as provided further, any person whose license is restricted
30 to operating only a motor vehicle with an ignition interlock device
31 installed may operate an employer's vehicle without an ignition interlock
32 device installed during normal business activities, provided that the person
33 does not partly or entirely own or control the employer's vehicle or
34 business. The provisions of this subsection shall not apply to any person
35 whose driving privileges have been restricted for the remainder of the one-
36 year suspension period as provided in subsection (a)(1) or (a)(3).

37 (f) Upon expiration of the period of time for which restrictions are
38 imposed pursuant to this section, the licensee may apply to the division for
39 the return of any license previously surrendered by the licensee. If the
40 license has expired, the person may apply to the division for a new license,
41 which shall be issued by the division upon payment of the proper fee and
42 satisfaction of the other conditions established by law, unless the person's
43 driving privileges have been suspended or revoked prior to expiration.

1 (g) Any person who has had the person's driving privileges
2 suspended, restricted or revoked pursuant to ~~subsection (a), (b) or (c)~~ of
3 K.S.A. 8-1014(a), (b) or (c), prior to the amendments by section 16 of
4 chapter 172 of the 2012 Session Laws of Kansas and section 14 of chapter
5 105 of the 2011 Session Laws of Kansas, may apply to the division to have
6 the suspension, restriction or revocation penalties modified in conformity
7 with the provisions of ~~subsection (a), (b) or (c)~~ of K.S.A. 8-1014(a), (b) or
8 (c), and amendments thereto. The division shall assess an application fee
9 of \$100 for a person to apply to modify the suspension, restriction or
10 revocation penalties previously issued. The division shall modify the
11 suspension, restriction or revocation penalties, unless such person's driving
12 privileges have been restricted, suspended, revoked or disqualified
13 pursuant to another action by the division or a court.

14 (h) The division shall remit all application fees collected pursuant to
15 subsections (a) and (g) to the state treasurer in accordance with the
16 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
17 each such remittance, the state treasurer shall deposit the entire amount in
18 the state treasury and shall credit such moneys to the division of vehicles
19 operating fund until an aggregate amount of \$100,000 is credited to the
20 division of vehicles operating fund each fiscal year. On and after an
21 aggregate amount of \$100,000 is credited to such fund each fiscal year, the
22 entire amount of such remittance shall be credited to the community
23 corrections supervision fund created by K.S.A. 2014 Supp. 75-52,113, and
24 amendments thereto. The application fee established in this section shall
25 be the only fee collected or moneys in the nature of a fee collected for such
26 application. Such fee shall only be established by an act of the legislature
27 and no other authority is established by law or otherwise to collect a fee.

28 ~~Sec. 2~~ **3.** K.S.A. 2014 Supp. **8-262 and 8-1015** ~~is~~ **are** hereby
29 repealed.

30 ~~Sec. 3~~ **4.** This act shall take effect and be in force from and after its
31 publication in the statute book.