

8-262. Driving while license canceled, suspended or revoked; penalty; extension of time of suspension or revocation; ignition interlock device restriction. (a) (1) Any person who drives a motor vehicle on any highway of this state at a time when such person's privilege so to do is canceled, suspended or revoked or while such person's privilege to obtain a driver's license is suspended or revoked pursuant to K.S.A. 8-252a, and amendments thereto, shall be guilty of a class B nonperson misdemeanor on the first conviction and a class A nonperson misdemeanor on the second or subsequent conviction.

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

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

(4) Except as otherwise provided by subsection (c), if a person: (A) Is convicted of a violation of this section, committed while the person's privilege to drive or privilege to obtain a driver's license was suspended or revoked for a violation of K.S.A. 8-2,144 or 8-1567 or K.S.A. 2016 Supp. 8-1025, and amendments thereto, or any ordinance of any city or resolution of any county or a law of another state, which ordinance or resolution or law prohibits the acts prohibited by those statutes; and (B) is or has been also convicted of a violation of K.S.A. 8-2,144 or 8-1567 or K.S.A. 2016 Supp. 8-1025, and amendments thereto, or any ordinance of any city or resolution of any county or law of another state, which ordinance or resolution or law prohibits the acts prohibited by those statutes, committed while the person's privilege to drive or privilege to obtain a driver's license was so suspended or revoked, the person shall not be eligible for suspension of sentence, probation or parole until the person has served at least 90 days' imprisonment, and any fine imposed on such person shall be in addition to such a term of imprisonment.

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

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

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

(B) was convicted of violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage;

(C) was convicted of vehicular homicide, K.S.A. 21-3405, prior to its repeal, or K.S.A. 2016 Supp. 21-5406, and amendments thereto, involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or involuntary manslaughter as defined in subsection (a)(3) of K.S.A. 2016 Supp. 21-5405, and amendments thereto, or any other murder or manslaughter crime resulting from the operation of a motor vehicle; or

(D) was convicted of being a habitual violator, K.S.A. 8-287, and amendments thereto.

(2) The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2016 Supp. 21-6609, and amendments thereto, or any municipal ordinance to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment.

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

History: L. 1937, ch. 73, § 29; L. 1949, ch. 104, § 33; L. 1959, ch. 49, § 30; L. 1967, ch. 59, § 6; L. 1970, ch. 52, § 1; L. 1972, ch. 28, § 2; L. 1974, ch. 38, § 5; L. 1981, ch. 43, § 1; L. 1983, ch. 34, § 4; L. 1985, ch. 48, § 1; L. 1985, ch. 78, § 6; L. 1991, ch. 39, § 1; L. 1992, ch. 239, § 27; L. 1993, ch. 291, § 2; L. 1994, ch. 353, § 4; L. 1999, ch. 164, § 1; L. 2001, ch. 112, § 4; L. 2001, ch. 200, § 3; L. 2006, ch. 211, § 10; L. 2007, ch. 181, § 2; L. 2011, ch. 30, § 88; L. 2011, ch. 105, § 5; L. 2012, ch. 172, § 5; July 1.

Section was also amended by L. 2011, ch. 30, § 88, but that version was repealed by L. 2011, ch. 105, § 36.