

SENATE BILL No. 100

By Committee on Transportation

1-28

1 AN ACT concerning **driving; relating to** drivers' licenses; ~~relating to~~
2 ~~certain restrictions~~; exclusion from the additional 90-day period for
3 suspended or revoked licenses; eligibility for restricted driving
4 privileges; removing and delaying payment for fees that apply to
5 individuals for failure to comply with a traffic citation; **providing for**
6 **payment plans and waiver of fines; requiring certain contact**
7 **information on a traffic citation**; amending K.S.A. 2020 Supp. 8-262,
8 **8-2106** and 8-2110 and repealing the existing sections; also repealing
9 K.S.A. 2020 Supp. 8-2110b.

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 *New Section 1. (a) Any person who is financially unable to pay*
13 *either the full amount of their original traffic fine or fines and court*
14 *costs or a monthly payment from an approved hardship payment plan, as*
15 *described in this section, may contact the court of jurisdiction to request*
16 *a hardship waiver to offset part or all of the balance owed. The waiver*
17 *shall include options for monthly installment payments and credits, or*
18 *both, earned by the defendant doing community service and attending*
19 *court approved classes, or both. A monthly payment amount shall be*
20 *calculated based on all fines and fees and all anticipated costs owed*
21 *within that jurisdiction and shall correspond to the person's ability to*
22 *pay. The monthly payment plan amount shall be the greater of \$10 or*
23 *2% of the person's annual net income, as of their most recent tax return,*
24 *divided by 12.*

25 *(b) A single page, uniform hardship waiver application form shall*
26 *be made available to download from the department of revenue website*
27 *in addition to being provided in each jurisdiction's clerk of court office*
28 *for defendants to sign and submit to the court. If the court denies an*
29 *economic hardship petition, a written explanation shall be provided to*
30 *the defendant stating the reason or reasons for the denial.*

31 *(c) Under the terms of the original traffic fine or fines and court*
32 *costs payment agreement made with the court, the municipal or judicial*
33 *district court shall order:*

34 *(1) The recall of any warrants directly related to the suspension of*
35 *the person's driver's license;*

36 *(2) the waiver of any reinstatement and collection fees directly*

1 *related to the suspension;*

2 *(3) the expungement of any previous driving on suspended*
3 *convictions due to nonpayment of traffic fines and court costs, or both,*
4 *or failure to appear; and*

5 *(4) the court may also order that a defendant who enters into a*
6 *payment agreement shall receive credit against any remaining traffic*
7 *fines and court costs owed by performing community service and*
8 *attending classes, or both, including online courses, aimed at defensive*
9 *and safe driving techniques or a state-approved traffic school program.*

10 *The court shall approve any classes and community service before the*
11 *person will receive credit toward their original traffic fines or court*
12 *costs. Once approved, the person shall receive a credit toward the*
13 *balance owed in an amount equal to \$15 for each hour spent by the*
14 *person doing community service and \$15 for each hour spent attending*
15 *classes.*

16 *(d) After a hardship payment plan has been approved by the court,*
17 *the court shall order the division of vehicles to reinstate the driver's*
18 *driving privileges without restriction. After a person has their driving*
19 *privileges reinstated by agreeing to an approved hardship payment plan,*
20 *that such person's driver's license shall not be suspended due to*
21 *nonpayment until they have failed to pay for 90 consecutive days.*

22 *(e) Any violation of law by the person holding a restricted license*
23 *that would result in the suspension or revocation of a driver license shall*
24 *result in the revocation of the restricted license.*

25 *(f) As soon as the original traffic fine or fines and court costs have*
26 *been paid as agreed by the defendant, the district or municipal court*
27 *shall electronically order the division of vehicles to immediately remove*
28 *the restrictions on the defendant's driver's license and mail written*
29 *notification to the defendant that their Kansas driver's privileges and*
30 *license have been reinstated.*

31 *(g) The provisions of this section shall not apply to:*

32 *(1) Non-traffic warrants; or*

33 *(2) a person whose driver's license has been suspended or revoked*
34 *under the provisions of K.S.A. 8-2,144, 8-1567 and 8-1567a, and*
35 *amendments thereto, or K.S.A. 2020 Supp. 8-1025, and amendments*
36 *thereto.*

37 ~~Section 1.~~ **Sec. 2.** K.S.A. 2020 Supp. 8-262 is hereby amended to read
38 as follows: 8-262. (a) (1) Any person who drives a motor vehicle on any
39 highway of this state at a time when such person's privilege so to do is
40 canceled, suspended or revoked or while such person's privilege to obtain
41 a driver's license is suspended or revoked pursuant to K.S.A. 8-252a, and
42 amendments thereto, shall be guilty of a class B nonperson misdemeanor
43 on the first conviction and a class A nonperson misdemeanor on the second

1 or subsequent conviction.

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

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

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

24 (b) (1) *Except as provided by subsection (b)(2), the division, upon*
25 *receiving a record of the conviction of any person under this section, or*
26 *any ordinance of any city or resolution of any county or a law of another*
27 *state which is in substantial conformity with this section, upon a charge of*
28 *driving a vehicle while the license of such person is revoked or suspended,*
29 *shall extend the period of such suspension or revocation for an additional*
30 *period of 90 days.*

31 (2) *For any person found guilty of driving a vehicle while the license*
32 *of such person is suspended for violating K.S.A. 8-2110, and amendments*
33 *thereto, such offense shall not extend the additional period of suspension*
34 *pursuant to subsection (b)(1).*

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

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

43 (B) was convicted of violating the provisions of K.S.A. 40-3104, and

1 amendments thereto, relating to motor vehicle liability insurance coverage;

2 (C) was convicted of vehicular homicide, K.S.A. 21-3405, prior to its
3 repeal, or K.S.A. 2020 Supp. 21-5406, and amendments thereto,
4 involuntary manslaughter while driving under the influence of alcohol or
5 drugs, K.S.A. 21-3442, prior to its repeal, or involuntary manslaughter as
6 defined in K.S.A. 2020 Supp. 21-5405(a)(3) and (a)(5), and amendments
7 thereto, or any other murder or manslaughter crime resulting from the
8 operation of a motor vehicle; or

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

11 (2) The person convicted shall not be eligible for release on
12 probation, suspension or reduction of sentence or parole until the person
13 has served at least 90 days' imprisonment. The 90 days' imprisonment
14 mandated by this subsection may be served in a work release program only
15 after such person has served 48 consecutive hours' imprisonment, provided
16 such work release program requires such person to return to confinement
17 at the end of each day in the work release program. The court may place
18 the person convicted under a house arrest program pursuant to K.S.A.
19 2020 Supp. 21-6609, and amendments thereto, or any municipal ordinance
20 to serve the remainder of the minimum sentence only after such person has
21 served 48 consecutive hours' imprisonment.

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

27 ***Sec. 3. K.S.A. 2020 Supp. 8-2106 is hereby amended to read as***
28 ***follows: 8-2106. (a) A law enforcement officer may prepare and deliver***
29 ***to a person a written traffic citation on a form approved by the division***
30 ***of motor vehicles, if the law enforcement officer stops the person for a***
31 ***violation of:***

32 ***(1) The uniform act regulating traffic on highways, which violation***
33 ***is a misdemeanor or a traffic infraction;***

34 ***(2) K.S.A. 8-262, 8-287, 8-2,144, 8-1599, 40-3104, 40-3106, 41-715,***
35 ***41-724, 41-727, 47-607, 66-1,111, 66-1,129, 66-1,139, 66-1,140, 66-273,***
36 ***66-1314, 66-1324, 66-1330, 66-1331, 66-1332, 68-2104, 68-2106 or***
37 ***subsection (b) of K.S.A. 79-34,122(b), or K.S.A. 2020 Supp. subsection (a)***
38 ***of 21-5607(a), 21-5810, 21-5815, 21-5816, subsection (a) of 21-5817(a)***
39 ***or 21-6203, and amendments thereto;***

40 ***(3) K.S.A. 31-155, and amendments thereto, involving***
41 ***transportation of bottle rockets;***

42 ***(4) K.S.A. 66-1314 or 66-1328, and amendments thereto, and any***
43 ***rules and regulations adopted pursuant thereto;***

1 **(5) any rules and regulations adopted pursuant to K.S.A. 2-1212,**
2 **68-2001 or 31-146, and amendments thereto;**

3 **(6) any rules and regulations adopted pursuant to K.S.A. 31-133,**
4 **and amendments, thereto relating to transportation of materials or fuel;**
5 **or**

6 **(7) K.S.A. 8-1343 through 8-1347, and amendments thereto,**
7 **relating to the child passenger safety act; or**

8 **(8) K.S.A. 8-2501 through 8-2507, and amendments thereto,**
9 **relating to the safety belt use act.**

10 **(b) The citation shall contain a notice to appear in court, the name**
11 **and address of the person, the type of vehicle the person was driving,**
12 **whether hazardous materials were being transported, whether an**
13 **accident occurred, the state registration number of the person's vehicle,**
14 **if any, a statement whether the vehicle is a commercial vehicle, whether**
15 **the person is licensed to drive a commercial motor vehicle, the offense or**
16 **offenses charged, the time and place when and where the person shall**
17 **appear in court, the phone number and email address of the clerk of the**
18 **court of the jurisdiction, the signature of the law enforcement officer,**
19 **and any other pertinent information.**

20 **(c) The time specified in the notice to appear shall be at least five**
21 **days after the alleged violation unless the person charged with the**
22 **violation demands an earlier hearing.**

23 **(d) The place specified in the notice to appear shall be before a**
24 **judge of the municipal or district court within the county in which the**
25 **offense is alleged to have been committed.**

26 **(e) Except in the circumstances to which subsection (a) of K.S.A. 8-**
27 **2104(a), and amendments thereto, apply, in the discretion of the law**
28 **enforcement officer, a person charged with a misdemeanor may give**
29 **written promise to either appear in court or phone or email of the clerk**
30 **the court to enter a plea prior to the court date and by signing at least one**
31 **copy of the written citation prepared by the law enforcement officer, in**
32 **which event the law enforcement officer shall deliver a copy of the**
33 **citation to the person and shall not take the person into physical custody.**

34 **(f) When a person is charged with a traffic infraction, the notice to**
35 **appear shall provide a place where the person may make a written entry**
36 **of appearance, waive the right to a trial and plead guilty or no contest.**
37 **Such notice to appear shall contain a provision that the person's failure**
38 **to either enter a plea with the clerk of the court prior to the specified time**
39 **and, if pleading guilty, make payments as agreed to with the court, pay**
40 **such fine and court costs or appear in court at the specified time may**
41 **result in suspension of the person's drivers' license as provided in K.S.A.**
42 **8-2110, and amendments thereto. The notice to appear shall provide a**
43 **space where the law enforcement officer shall enter the appropriate fine**

1 *specified in the uniform fine schedule contained in K.S.A. 8-2118, and*
2 *amendments thereto, for the violation charged and court costs in the*
3 *amount provided by law. If the notice to appear does not do so, the law*
4 *enforcement officer shall provide a person charged with a traffic*
5 *infraction a form explaining the person's right to contact the clerk of the*
6 *court of the jurisdiction to enter a plea prior to the date to appear and*
7 *right to a trial and the person's right to negotiate with the court a plan to*
8 *pay the fine or fines stated on the traffic citation and court costs or pay*
9 *the appropriate fine and court costs prior to the appearance date. The*
10 *law enforcement officer shall provide the person with the phone number*
11 *and email address of the clerk of the court and the address of the court to*
12 *which the written entry of appearance, waiver of trial, plea of guilty or*
13 *no contest and payment of fine and court costs shall be mailed.*

14 *(g) Any officer violating any of the provisions of subsection (f) is*
15 *guilty of misconduct in office and shall be subject to removal from*
16 *office.*

17 Sec. ~~2~~ 4. K.S.A. 2020 Supp. 8-2110 is hereby amended to read as
18 follows: 8-2110. (a) Failure to comply with a traffic citation means failure
19 either to: (1) Appear before any district or municipal court in response to a
20 traffic citation ~~and~~ *or enter a plea with the clerk of the court prior to*
21 *their assigned court date, and, if pleading guilty, pay in full any fine and*
22 *court costs imposed; or (2) otherwise comply with a traffic citation as*
23 *provided in K.S.A. 8-2118, and amendments thereto in accordance with*
24 *the amount and payment plan agreed upon by the court. Failure to*
25 *comply with a traffic citation is a misdemeanor, regardless of the*
26 *disposition of the charge for which such citation was originally issued.*

27 (b) (1) In addition to penalties of law applicable under subsection (a),
28 when a person fails to comply with a traffic citation, except for illegal
29 parking, standing or stopping, the district or municipal court in which the
30 person should have complied with the citation shall mail notice to the
31 person that if the person does not appear in district or municipal court or
32 ~~pay all fines, court costs and any penalties~~ *enter a plea with the court*
33 *within 30 days from the date of mailing notice, the division of vehicles*
34 *will be notified to suspend the person's driving privileges. The district or*
35 *municipal court may charge an additional fee of \$5 for mailing such*
36 *notice. Upon the person's failure to comply within such 30 days of mailing*
37 *notice, the district or municipal court shall electronically notify the*
38 *division of vehicles. Upon receipt of a report of a failure to comply with a*
39 *traffic citation under this subsection, ~~pursuant to K.S.A. 8-255, and~~*
40 *amendments thereto, the division of vehicles shall notify the violator and*
41 *suspend the license of the violator until satisfactory evidence of*
42 *compliance with the terms of the traffic citation has been furnished to the*
43 *informing court. When the court determines the person has complied with*

1 the terms of the traffic citation, the court shall immediately electronically
2 notify the division of vehicles of such compliance. Upon receipt of
3 notification of such compliance from the informing court, the division of
4 vehicles shall terminate the suspension or suspension action.

5 (2) (A) In lieu of suspension under paragraph (1), the driver may
6 submit to the division of vehicles a written request for restricted driving
7 privileges, ~~with a non-refundable \$25 application fee, to be applied by the~~
8 ~~division of vehicles for additional administrative costs to implement~~
9 ~~restricted driving privileges. The division shall remit all restricted driving~~
10 ~~privilege application fees to the state treasurer in accordance with the~~
11 ~~provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of~~
12 ~~each such remittance, the state treasurer shall deposit the entire amount in~~
13 ~~the state treasury to the credit of the division of vehicles operating fund.~~
14 *No application fee shall be collected in connection with such written*
15 *request.*

16 (B) A person whose driver's license has expired during the period
17 when such person's driver's license has been suspended for failure to pay
18 fines for traffic citations, ~~the driver or failure to appear in court or~~
19 ~~contact the court to enter a plea prior to their court date~~ may submit to
20 the division of vehicles a written request for restricted driving privileges;
21 ~~with a non-refundable \$25 application fee, to be applied by the division of~~
22 ~~vehicles for additional administrative costs to implement restricted driving~~
23 ~~privileges. The division shall remit all restricted driving privilege~~
24 ~~application fees to the state treasurer in accordance with the provisions of~~
25 ~~K.S.A. 75-4215, and amendments thereto. Upon receipt of each such~~
26 ~~remittance, the state treasurer shall deposit the entire amount in the state~~
27 ~~treasury to the credit of the division of vehicles operating fund. No~~
28 ~~application fee shall be collected in connection with such request.~~

29 (C) An individual shall not qualify for restricted driving privileges
30 pursuant to ~~this section~~ subsections (b)(2)(A) or (b)(2)(B) unless the
31 following conditions are met: (i) The suspended license ~~that expired~~ was
32 issued by the division of vehicles; (ii) the suspended license resulted from
33 the individual's failure to comply with a traffic citation pursuant to
34 subsection (b)(1) *and there is no other basis for the license suspension or*
35 *cancellation except for violations of this section; and* (iii) the traffic
36 citation that resulted in the failure to comply pursuant to subsection (b)(1)
37 was issued in this state; ~~and (iv) the individual has not previously received~~
38 ~~a stayed suspension as a result of a driving while suspended conviction.~~

39 ~~(D)~~ Upon review and approval of the driver's eligibility, the
40 driving privileges will be restricted by the division of vehicles for a period
41 up to one year or until the terms of the traffic citation have been complied
42 with and the court shall immediately electronically notify the division of
43 vehicles of such compliance. If the driver fails to comply with the traffic

1 citation within the one year restricted period, the driving privileges will be
2 suspended by the division of vehicles until the court determines the person
3 has complied with the terms of the traffic citation and the court shall
4 immediately electronically notify the division of vehicles of such
5 compliance. Upon receipt of notification of such compliance from the
6 informing court, the division of vehicles shall terminate the suspension
7 action. When restricted driving privileges are approved pursuant to this
8 section, the person's driving privileges shall be restricted to driving only
9 under the following circumstances: (i) In going to or returning from the
10 person's place of employment or schooling; (ii) in the course of the
11 person's employment; (iii) in going to or returning from an appointment
12 with a health care provider or during a medical emergency; and (iv) in
13 going to and returning from probation or parole meetings, drug or alcohol
14 counseling or any place the person is required to go by a court.

15 ~~(c) (1) Prior to July 1, 2018, except as provided in subsection (d),~~
16 ~~when the district or municipal court notifies the division of vehicles of a~~
17 ~~failure to comply with a traffic citation pursuant to subsection (b), the~~
18 ~~court shall assess a reinstatement fee of \$59 for each charge on which the~~
19 ~~person failed to make satisfaction regardless of the disposition of the~~
20 ~~charge for which such citation was originally issued and regardless of any~~
21 ~~application for restricted driving privileges. Such reinstatement fee shall~~
22 ~~be in addition to any fine, restricted driving privilege application fee,~~
23 ~~district or municipal court costs and other penalties. The court shall remit~~
24 ~~all reinstatement fees to the state treasurer in accordance with the~~
25 ~~provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of~~
26 ~~each such remittance, the state treasurer shall deposit the entire amount in~~
27 ~~the state treasury and shall credit 42.37% of such moneys to the division of~~
28 ~~vehicles operating fund, 31.78% to the community alcoholism and~~
29 ~~intoxication programs fund created by K.S.A. 41-1126, and amendments~~
30 ~~thereto, 10.59% to the juvenile alternatives to detention fund created by~~
31 ~~K.S.A. 79-4803, and amendments thereto, and 15.26% to the judicial~~
32 ~~branch nonjudicial salary adjustment fund created by K.S.A. 2020 Supp.~~
33 ~~20-1a15, and amendments thereto.~~

34 ~~(2) On and after July 1, 2018, Except as provided in subsection (d),~~
35 ~~when the district or municipal court notifies the division of vehicles of a~~
36 ~~failure to comply with a traffic citation issued on and after July 1, 2021,~~
37 ~~pursuant to subsection (b), the court shall assess a reinstatement fee of~~
38 ~~\$100 for each charge on which the person failed to make satisfaction~~
39 ~~regardless of the disposition of the charge for which such citation was~~
40 ~~originally issued and regardless of any application for restricted driving~~
41 ~~privileges for each case. Such reinstatement fee shall be in addition to any~~
42 ~~fine, restricted driving privilege application fee, district or municipal court~~
43 ~~costs and other penalties and shall only be collected after a person has~~

1 *been determined to be eligible for reinstatement.* The court shall remit all
2 reinstatement fees to the state treasurer in accordance with the provisions
3 of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
4 remittance, the state treasurer shall deposit the entire amount in the state
5 treasury and shall credit the first \$15 of such reinstatement fee to the
6 judicial branch nonjudicial salary adjustment fund and of the remaining
7 amount, 29.41% of such moneys to the division of vehicles operating fund,
8 22.06% to the community alcoholism and intoxication programs fund
9 created by K.S.A. 41-1126, and amendments thereto, 7.36% to the juvenile
10 alternatives to detention fund created by K.S.A. 79-4803, and amendments
11 thereto, and 41.17% to the judicial branch nonjudicial salary adjustment
12 fund created by K.S.A. 2020 Supp. 20-1a15, and amendments thereto.

13 (d) The district court or municipal court shall waive the reinstatement
14 fee provided for in subsection (c), if the failure to comply with a traffic
15 citation was the result of such person enlisting in or being drafted into the
16 armed services of the United States, being called into service as a member
17 of a reserve component of the military service of the United States, or
18 volunteering for such active duty, or being called into service as a member
19 of the state of Kansas national guard, or volunteering for such active duty,
20 and being absent from Kansas because of such military service.

21 (e) A person who is assessed a reinstatement fee pursuant to
22 subsection (c) may petition the court that assessed the fee at any time to
23 waive payment of the fee, any additional charge imposed pursuant to
24 subsection (f), or any portion thereof. If it appears to the satisfaction of the
25 court that payment of the amount due will impose manifest hardship on the
26 person or the person's immediate family, the court may waive payment of
27 all or part of the amount due or modify the method of payment.

28 (f) Except as provided further, the reinstatement fee established in
29 this section shall be the only fee collected or moneys in the nature of a fee
30 collected for such reinstatement. Such fee shall only be established by an
31 act of the legislature and no other authority is established by law or
32 otherwise to collect a fee. On and after ~~July 1, 2017, through June 30,~~
33 ~~2019~~ *July 1, 2019, through June 30, 2025*, the supreme court may impose
34 an additional charge, not to exceed \$22 per reinstatement fee, to fund the
35 costs of non-judicial personnel.

36 ~~Sec. 3.~~ **5.** K.S.A. 2020 Supp. 8-262, **8-2106**, 8-2110 and 8-2110b are
37 hereby repealed.

38 ~~Sec. 4.~~ **6.** This act shall take effect and be in force from and after its
39 publication in the statute book.