

## SENATE BILL No. 77

By Committee on Transportation

1-12

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12 AN ACT relating to motor vehicles; enacting the unattended and unsu-  
13 pervised children in motor vehicles safety act; amending K.S.A. 8-2106  
14 and repealing the existing section.

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

17 New Section 1. (a) As used in this section:

18 (1) "Motor vehicle" shall have the meaning ascribed to it in K.S.A.  
19 8-1437, and amendments thereto, but shall not include a motor home, as  
20 defined in K.S.A. 8-1436, and amendments thereto or truck tractor, as  
21 defined in K.S.A. 8-1483, and amendments thereto; and

22 (2) "unattended and unsupervised" means leaving a child in a motor  
23 vehicle not accompanied by another person 13 years of age or older.

24 (b) It shall be unlawful for any ~~driver who is 16 years of age or older~~  
25 **[person]** to leave a child ~~eight~~ **[five]** years of age or less unattended and  
26 unsupervised in a motor vehicle **[for more than five minutes][, except**  
27 **while such motor vehicle is being loaded or unloaded].**

28 (c) (1) Any driver violating the provisions of subsection (b), upon a  
29 first conviction, shall be guilty of an unclassified misdemeanor punishable  
30 by a fine of \$25.

31 (2) Any driver convicted of violating the provisions of subsection (b)  
32 within three years of any such prior conviction shall be guilty of a class C  
33 misdemeanor and shall be subject to a fine of at least \$250 but not more  
34 than \$500.

35 (d) The provisions of this section shall be enforced by law enforce-  
36 ment officers on public and private property.

37 (e) On and after the effective date of this act, and prior to July 1,  
38 2008, a law enforcement officer shall issue a warning citation to anyone  
39 violating this section.

40 (f) Any law enforcement officer who observes a child left unattended  
41 and unsupervised in a motor vehicle in violation of this section may use  
42 whatever means are reasonably necessary to protect the child and remove  
43 the child from the motor vehicle.

1 (g) Nothing in this section precludes prosecution under any other  
2 provision of law.

3 **(h) A law enforcement officer, and the state or any political sub-**  
4 **division of the state that employs a law enforcement officer, who**  
5 **observes a child left unattended and unsupervised in a motor ve-**  
6 **hicle who uses means that are reasonably necessary to protect the**  
7 **child in removing such child from the motor vehicle shall have im-**  
8 **munity from any civil or criminal liability when acting under the**  
9 **authority of this section.**

10 New Sec. 2. The secretary of transportation shall develop a program  
11 of public education that includes education on and increases the aware-  
12 ness of the dangers of leaving young children unattended and unsuper-  
13 vised in motor vehicles. As part of this program, the Kansas department  
14 of transportation shall make available to law enforcement officers for dis-  
15 semination, information concerning the dangers of leaving young children  
16 unattended and unsupervised in motor vehicles.

17 New Sec. 3. The provisions of sections 1 and 2, and amendments  
18 thereto, may be cited as the unattended and unsupervised children in  
19 motor vehicles safety act.

20 Sec. 4. K.S.A. 8-2106 is hereby amended to read as follows: 8-2106.

21 (a) A law enforcement officer may prepare and deliver to a person a  
22 written traffic citation on a form approved by the division of ~~motor~~ ve-  
23 hicles, if the law enforcement officer stops the person for a violation of:

24 (1) The uniform act regulating traffic on highways, which violation is  
25 a misdemeanor or a traffic infraction;

26 (2) K.S.A. 8-262, 8-287, 8-2,144, 21-3610, 21-3610a, 21-3722, 21-  
27 3724, 21-3725, 21-3728, 21-4101, 40-3104, 40-3106, 41-715, 41-724, 41-  
28 727, 47-607, 66-1,111, 66-1,129, 66-1,139, 66-1,140, 66-273, 66-1314, 66-  
29 1324, 66-1330, 66-1331, 66-1332, 68-2104, 68-2106, subsection (b) of  
30 K.S.A. 79-34,122, or K.S.A. 8-1599, and amendments thereto;

31 (3) K.S.A. 31-155 and amendments thereto involving transportation  
32 of bottle rockets;

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

35 (5) any rules and regulations adopted pursuant to K.S.A. 2-1212, 68-  
36 2001 or 31-146, and amendments thereto;

37 (6) any rules and regulations adopted pursuant to K.S.A. 31-133 and  
38 amendments thereto relating to transportation of materials or fuel; or

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

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

43 (b) A law enforcement officer may prepare and deliver to a person a

1 *written traffic citation on a form approved by the division of vehicles for*  
2 *a violation of section 1, and amendments thereto, relating to the unat-*  
3 *tended and unsupervised children in motor vehicles safety act.*

4 ~~(b)~~ (c) The citation shall contain a notice to appear in court, the name  
5 and address of the person, the type of vehicle the person was driving,  
6 whether hazardous materials were being transported, whether an acci-  
7 dent occurred, the state registration number of the person's vehicle, if  
8 any, a statement whether the vehicle is a commercial vehicle, whether  
9 the person is licensed to drive a commercial motor vehicle, the offense  
10 or offenses charged, the time and place when and where the person shall  
11 appear in court, the signature of the law enforcement officer, and any  
12 other pertinent information.

13 ~~(c)~~ (d) The time specified in the notice to appear shall be at least five  
14 days after the alleged violation unless the person charged with the vio-  
15 lation demands an earlier hearing.

16 ~~(d)~~ (e) The place specified in the notice to appear shall be before a  
17 judge of the district court within the county in which the offense is alleged  
18 to have been committed.

19 ~~(e)~~ (f) Except in the circumstances to which subsection (a) of K.S.A.  
20 8-2104, and amendments thereto, apply, in the discretion of the law en-  
21 forcement officer, a person charged with a misdemeanor may give written  
22 promise to appear in court by signing at least one copy of the written  
23 citation prepared by the law enforcement officer, in which event the law  
24 enforcement officer shall deliver a copy of the citation to the person and  
25 shall not take the person into physical custody.

26 ~~(f)~~ (g) When a person is charged with a traffic infraction, the notice  
27 to appear shall provide a place where the person may make a written  
28 entry of appearance, waive the right to a trial and plead guilty or no  
29 contest. The notice to appear shall provide a space where the law en-  
30 forcement officer shall enter the appropriate fine specified in the uniform  
31 fine schedule contained in K.S.A. 8-2118, and amendments thereto, for  
32 the violation charged and court costs in the amount provided by law. If  
33 the notice to appear does not do so, the law enforcement officer shall  
34 provide a person charged with a traffic infraction a form explaining the  
35 person's right to appear and right to a trial, the person's right to pay the  
36 appropriate fine and court costs prior to the appearance date, and that  
37 failure to either pay such fine and court costs or appear at the specified  
38 time may result in suspension of the person's driver's license. The law  
39 enforcement officer shall provide the person with the address of the court  
40 to which the written entry of appearance, waiver of trial, plea of guilty or  
41 no contest and payment of fine and court costs shall be mailed.

42 ~~(g)~~ (h) Any officer violating any of the provisions of subsection ~~(f)~~ (g)  
43 is guilty of misconduct in office and shall be subject to removal from

1 office.

2 Sec. 5. K.S.A. 8-2106 is hereby repealed.

3 Sec. 6. This act shall take effect and be in force from and after its

4 publication in the statute book.