

SENATE Substitute for HOUSE BILL No. 2437

By Committee on Transportation

3-8

9 AN ACT relating to motor vehicles; regulating traffic; prohibiting text
10 messaging while operating a moving motor vehicle; concerning the use
11 of safety belts; amending K.S.A. 2009 Supp. 8-2118, 8-2503 and 8-
12 2504 and repealing the existing sections.
13

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

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

16 (1) "Handheld wireless communication device" means a handheld
17 device used for the transfer of information without the use of electrical
18 conductors or wires and includes a:

- 19 (A) Wireless telephone;
- 20 (B) personal digital assistant;
- 21 (C) pager;
- 22 (D) text messaging device; or
- 23 (E) laptop computer.

24 "Handheld wireless communication device" does not include a voice-
25 operated or hands-free device.

26 (2) "Text messaging" means a communication in the form of elec-
27 tronic text or one or more electronic images sent by a person from a
28 telephone or computer to another person's telephone or computer by
29 addressing the communication to the person's telephone number. "Text
30 messaging" shall not include an emergency, traffic or weather alert or
31 message related to the operation or navigation of a motor vehicle.

32 (3) "Conviction" means a final conviction without regard to whether
33 the sentence was suspended or probation granted after such conviction.
34 Forfeiture of bail, bond or collateral deposited to secure a defendant's
35 appearance in court, which forfeiture has not been vacated, shall be equiv-
36 alent to a conviction.

37 (b) Except as provided in subsection (c), it shall be unlawful for a
38 person to use a handheld wireless communication device for text mes-
39 saging or electronic mail communication while driving a moving motor
40 vehicle on a highway in this state, except to activate or deactivate a feature
41 or function of a voice-operated or hands-free device.

42 (c) The provisions of subsection (b) shall not prohibit a person from
43 using a handheld wireless communication device while driving a moving

1 motor vehicle:

2 (1) During a medical emergency;

3 (2) when reporting a safety hazard or requesting assistance relating
4 to a safety hazard;

5 (3) when reporting criminal activity or requesting assistance relating
6 to criminal activity;

7 (4) if the person reads, selects or enters a telephone number or name
8 in a handheld wireless communication device for the purpose of making
9 or receiving a phone call;

10 (5) when providing roadside or medical assistance; or

11 (6) when used by a law enforcement officer or emergency service
12 personnel acting within the course and scope of the law enforcement
13 officer's or emergency service personnel's employment.

14 (d) (1) Except as provided further, a person convicted of violating
15 subsection (b) shall be guilty of a traffic infraction.

16 (2) Except as provided further, a person convicted of violating sub-
17 section (b), upon a second or subsequent conviction, shall be guilty of a
18 class B misdemeanor.

19 (3) A person convicted of violating subsection (b) and such person
20 has inflicted serious injury upon another person as a result of such vio-
21 lation, upon conviction, shall be guilty of a class A misdemeanor.

22 (e) Upon conviction of a violation of subsection (b), the court, in
23 addition to any other penalty or disposition ordered pursuant to law, may
24 suspend the person's driving privileges for 90 days.

25 (f) The provisions of this section shall be applicable and uniform
26 throughout the state and no city, county, subdivision or local authority
27 shall enact or enforce any law, ordinance, rule, regulation or resolution
28 in conflict with, in addition to, or supplemental to, the provisions of this
29 section.

30 (g) This section shall be part of and supplemental to the uniform act
31 regulating traffic on highways.

32 Sec. 2. K.S.A. 2009 Supp. 8-2118 is hereby amended to read as fol-
33 lows: 8-2118. (a) A person charged with a traffic infraction shall, except
34 as provided in subsection (b), appear at the place and time specified in
35 the notice to appear. If the person enters an appearance, waives right to
36 trial, pleads guilty or no contest, the fine shall be no greater than that
37 specified in the uniform fine schedule in subsection (c) and court costs
38 shall be taxed as provided by law.

39 (b) Prior to the time specified in the notice to appear, a person
40 charged with a traffic infraction may enter a written appearance, waive
41 right to trial, plead guilty or no contest and pay the fine for the violation
42 as specified in the uniform fine schedule in subsection (c) and court costs
43 provided by law. Payment may be made by mail or in person and may be

1 by personal check. The traffic citation shall not have been complied with
 2 if a check is not honored for any reason, or if the fine and court costs are
 3 not paid in full. When a person charged with a traffic infraction makes
 4 payment without executing a written waiver of right to trial and plea of
 5 guilty or no contest, the payment shall be deemed such an appearance,
 6 waiver of right to trial and plea of no contest.

7 (c) The following uniform fine schedule shall apply uniformly
 8 throughout the state but shall not limit the fine which may be imposed
 9 following a court appearance, except an appearance made for the purpose
 10 of pleading and payment as permitted by subsection (a). The description
 11 of offense contained in the following uniform fine schedule is for refer-
 12 ence only and is not a legal definition.

13	<i>Description of Offense</i>	<i>Statute</i>	<i>Fine</i>
14	Refusal to submit to a preliminary breath test	8-1012	\$90
15	Unsafe speed for prevailing conditions	8-1557	\$60
16	Exceeding maximum speed limit; or speeding	8-1558	1-10 mph over the limit, \$30
17	in zone posted by the state department of	to	
18	transportation; or speeding in locally posted	8-1560	11-20 mph over the limit,
19	zone	8-1560a	\$30 plus \$6 per mph over
20		or	10 mph over the limit;
21		8-1560b	
22			21-30 mph over the limit,
23			\$90 plus \$9 per mph over
24			20 mph over the limit;
25			
26			31 and more mph over the
27			limit, \$180 plus \$15 per
28			mph over 30 mph over the
29			limit;
30	Disobeying traffic control device	8-1507	\$60
31	Violating traffic control signal	8-1508	\$60
32	Violating pedestrian control signal	8-1509	\$30
33	Violating flashing traffic signals	8-1510	\$60
34	Violating lane-control signal	8-1511	\$60
35	Unauthorized sign, signal, marking or device	8-1512	\$30
36	Driving on left side of roadway	8-1514	\$60
37	Failure to keep right to pass oncoming vehicle	8-1515	\$60
38	Improper passing; increasing speed when	8-1516	\$60
39	passed		
40	Improper passing on right	8-1517	\$60
41	Passing on left with insufficient clearance	8-1518	\$60
42			
43			

1	Driving on left side where curve, grade,	8-1519	\$60
2	intersection railroad crossing, or obstructed		
3	view		
4	Driving on left in no-passing zone	8-1520	\$60
5	Unlawful passing of stopped emergency	8-1520a	\$60
6	vehicle		
7	Driving wrong direction on one-way road	8-1521	\$60
8	Improper driving on laned roadway	8-1522	\$60
9	Following too close	8-1523	\$60
10	Improper crossover on divided highway	8-1524	\$30
11	Failure to yield right-of-way at uncontrolled	8-1526	\$60
12	intersection		
13	Failure to yield to approaching vehicle when	8-1527	\$60
14	turning left		
15	Failure to yield at stop or yield sign	8-1528	\$60
16	Failure to yield from private road or driveway	8-1529	\$60
17	Failure to yield to emergency vehicle	8-1530	\$180
18	Failure to yield to pedestrian or vehicle	8-1531	\$90
19	working on roadway		
20	Failure to comply with restrictions in road	8-1531a	\$30
21	construction zone		
22	Disobeying pedestrian traffic control device	8-1532	\$30
23	Failure to yield to pedestrian in crosswalk;	8-1533	\$60
24	pedestrian suddenly entering roadway;		
25	passing vehicle stopped for pedestrian at		
26	crosswalk		
27	Improper pedestrian crossing	8-1534	\$30
28	Failure to exercise due care in regard to	8-1535	\$30
29	pedestrian		
30	Improper pedestrian movement in crosswalk	8-1536	\$30
31	Improper use of roadway by pedestrian	8-1537	\$30
32	Soliciting ride or business on roadway	8-1538	\$30
33	Driving through safety zone	8-1539	\$30
34	Failure to yield to pedestrian on sidewalk	8-1540	\$30
35	Failure of pedestrian to yield to emergency	8-1541	\$30
36	vehicle		
37	Failure to yield to blind pedestrian	8-1542	\$30
38	Pedestrian disobeying bridge or railroad signal	8-1544	\$30
39	Improper turn or approach	8-1545	\$60
40	Improper "U" turn	8-1546	\$60
41	Unsafe starting of stopped vehicle	8-1547	\$30
42	Unsafe turning or stopping, failure to give	8-1548	\$60
43	proper signal; using turn signal unlawfully		

1	Improper method of giving notice of intention	8-1549	\$30
2	to turn		
3	Improper hand signal	8-1550	\$30
4	Failure to stop or obey railroad crossing signal	8-1551	\$180
5	Failure to stop at railroad crossing stop sign	8-1552	\$120
6	Certain hazardous vehicles failure to stop at	8-1553	\$180
7	railroad crossing		
8	Improper moving of heavy equipment at	8-1554	\$60
9	railroad crossing		
10	Vehicle emerging from alley, private roadway,	8-1555	\$60
11	building or driveway		
12	Improper passing of school bus; improper use	8-1556	\$300
13	of school bus signals		
14	Improper passing of church or day-care bus;	8-1556a	\$180
15	improper use of signals		
16	Impeding normal traffic by slow speed	8-1561	\$30
17	Speeding on motor-driven cycle	8-1562	\$60
18	Speeding in certain vehicles or on posted	8-1563	\$30
19	bridge		
20	Improper stopping, standing or parking on	8-1569	\$30
21	roadway		
22	Parking, standing or stopping in prohibited	8-1571	\$30
23	area		
24	Improper parking	8-1572	\$30
25	Unattended vehicle	8-1573	\$30
26	Improper backing	8-1574	\$30
27	Driving on sidewalk	8-1575	\$30
28	Driving with view or driving mechanism	8-1576	\$30
29	obstructed		
30	Unsafe opening of vehicle door	8-1577	\$30
31	Riding in house trailer	8-1578	\$30
32	Improper driving in defiles, canyons, or on	8-1579	\$30
33	grades		
34	Coasting	8-1580	\$30
35	Following fire apparatus too closely	8-1581	\$60
36	Driving over fire hose	8-1582	\$30
37	Putting glass, etc., on highway	8-1583	\$90
38	Driving into intersection, crosswalk, or	8-1584	\$30
39	crossing without sufficient space on other		
40	side		
41	Improper operation of snowmobile on	8-1585	\$30
42	highway		
43	Parental responsibility of child riding bicycle	8-1586	\$30

1	Not riding on bicycle seat; too many persons	8-1588	\$30
2	on bicycle		
3	Clinging to other vehicle	8-1589	\$30
4	Improper riding of bicycle on roadway	8-1590	\$30
5	Carrying articles on bicycle; one hand on	8-1591	\$30
6	handlebars		
7	Improper bicycle lamps, brakes or reflectors	8-1592	\$30
8	Improper operation of motorcycle; seats;	8-1594	\$30
9	passengers, bundles		
10	Improper operation of motorcycle on laned	8-1595	\$60
11	roadway		
12	Motorcycle clinging to other vehicle	8-1596	\$30
13	Improper motorcycle handlebars or passenger	8-1597	\$60
14	equipment		
15	Motorcycle helmet and eye-protection	8-1598	\$30
16	requirements		
17	Unlawful riding on vehicle	8-1578a	\$60
18	Unlawful operation of all-terrain vehicle	8-15,100	\$60
19	Unlawful operation of low-speed vehicle	8-15,101	\$60
20	Littering	8-15,102	\$100
21	Disobeying school crossing guard	8-15,103	\$60
22	Unlawful operation of micro utility truck	8-15,106	\$60
23	Failure to remove vehicles in accidents	8-15,107	\$60
24	Unlawful operation of golf cart	8-15,108	\$60
25	Unlawful operation of work-site utility vehicle	8-15,109	\$60
26	<i>Unlawful text messaging</i>	<i>subsection</i>	<i>\$100</i>
27		<i>(d)(1) of</i>	
28		<i>section 1</i>	
29	Equipment offenses that are not	8-1701	\$60
30	misdemeanors		
31	Driving without lights when needed	8-1703	\$30
32	Defective headlamps	8-1705	\$30
33	Defective tail lamps	8-1706	\$30
34	Defective reflector	8-1707	\$30
35	Improper stop lamp or turn signal	8-1708	\$30
36	Improper lighting equipment on certain	8-1710	\$30
37	vehicles		
38	Improper lamp color on certain vehicles	8-1711	\$30
39	Improper mounting of reflectors and lamps on	8-1712	\$30
40	certain vehicles		
41	Improper visibility of reflectors and lamps on	8-1713	\$30
42	certain vehicles		
43	No lamp or flag on projecting load	8-1715	\$60

1	Improper lamps on parked vehicle	8-1716	\$30
2	Improper lights, lamps, reflectors and	8-1717	\$30
3	emblems on farm tractors or slow-moving		
4	vehicles		
5	Improper lamps and equipment on	8-1718	\$30
6	implements of husbandry, road machinery		
7	or animal-drawn vehicles		
8	Unlawful use of spot, fog, or auxiliary lamp	8-1719	\$30
9	Improper lamps or lights on emergency	8-1720	\$30
10	vehicle		
11	Improper stop or turn signal	8-1721	\$30
12	Improper vehicular hazard warning lamp	8-1722	\$30
13	Unauthorized additional lighting equipment	8-1723	\$30
14	Improper multiple-beam lights	8-1724	\$30
15	Failure to dim headlights	8-1725	\$60
16	Improper single-beam headlights	8-1726	\$30
17	Improper speed with alternate lighting	8-1727	\$30
18	Improper number of driving lamps	8-1728	\$30
19	Unauthorized lights and signals	8-1729	\$30
20	Improper school bus lighting equipment and	8-1730	\$30
21	warning devices		
22	Unauthorized lights and devices on church or	8-1730a	\$30
23	day-care bus		
24	Improper lights on highway construction or	8-1731	\$30
25	maintenance vehicles		
26	Defective brakes	8-1734	\$30
27	Defective or improper use of horn or warning	8-1738	\$30
28	device		
29	Defective muffler	8-1739	\$30
30	Defective mirror	8-1740	\$30
31	Defective wipers; obstructed windshield or	8-1741	\$30
32	windows		
33	Improper tires	8-1742	\$30
34	Improper flares or warning devices	8-1744	\$30
35	Improper use of vehicular hazard warning	8-1745	\$30
36	lamps and devices		
37	Improper air-conditioning equipment	8-1747	\$30
38	Improper safety belt or shoulder harness	8-1749	\$30
39	Improper wide-based single tires	8-1742b	\$60
40	Improper compression release engine braking	8-1761	\$60
41	system		
42	Defective motorcycle headlamp	8-1801	\$30
43	Defective motorcycle tail lamp	8-1802	\$30

1	Defective motorcycle reflector	8-1803	\$30
2	Defective motorcycle stop lamps and turn	8-1804	\$30
3	signals		
4	Defective multiple-beam lighting	8-1805	\$30
5	Improper road-lighting equipment on motor-	8-1806	\$30
6	driven cycles		
7	Defective motorcycle or motor-driven cycle	8-1807	\$30
8	brakes		
9	Improper performance ability of brakes	8-1808	\$30
10	Operating motorcycle with disapproved	8-1809	\$30
11	braking system		
12	Defective horn, muffler, mirrors or tires	8-1810	\$30
13	Unlawful statehouse parking	75-4510a	\$15
14	Exceeding gross weight of vehicle or	8-1909	Pounds Overweight
15	combination		up to 1000 \$25
16			1001 to 2000 3¢ per pound
17			2001 to 5000 5¢ per pound
18			5001 to 7500 7¢ per pound
19			7501 and over .. 10¢ per pound
20	Exceeding gross weight on any axle or tandem,	8-1908	Pounds Overweight
21	triple or quad axles		up to 1000 \$25
22			1001 to 2000 3¢ per pound
23			2001 to 5000 5¢ per pound
24			5001 to 7500 7¢ per pound
25			7501 and over .. 10¢ per pound
26	Failure to obtain proper registration, clearance	66-1324	\$272
27	or to have current certification		
28	Insufficient liability insurance for motor	66-1,128	\$122
29	carriers	or 66-1314	
30	Failure to obtain interstate motor fuel tax	79-34,122	\$122
31	authorization		
32	No authority as private or common carrier	66-1,111	\$122
33	Violation of motor carrier safety rules and	66-1,129	\$100
34	regulations, except for violations specified in		
35	subsection (b)(2) of K.S.A. 66-1,130, and		
36	amendments thereto		
37	(d) Traffic offenses classified as traffic infractions by this section shall		
38	be classified as ordinance traffic infractions by those cities adopting		
39	ordinances prohibiting the same offenses. A schedule of fines for all		
40	ordinance traffic infractions shall be established by the municipal judge		
41	in the manner prescribed by K.S.A. 12-4305, and amendments thereto.		
42	Such fines may vary from those contained in the uniform fine schedule		
43	contained in subsection (c).		

1 (e) Fines listed in the uniform fine schedule contained in subsection
2 (c) shall be doubled if a person is convicted of a traffic infraction, which
3 is defined as a moving violation in accordance with rules and regulations
4 adopted pursuant to K.S.A. 8-249, and amendments thereto, committed
5 within any road construction zone as defined in K.S.A. 8-1458a, and
6 amendments thereto.

7 (f) For a second violation of K.S.A. 8-1908 or 8-1909, and
8 amendments thereto, within two years after a prior conviction of K.S.A.
9 8-1908 or 8-1909, and amendments thereto, such person, upon conviction
10 shall be fined $1\frac{1}{2}$ times the applicable amount from one, but not both,
11 of the schedules listed in the uniform fine schedule contained in
12 subsection (c). For a third violation of K.S.A. 8-1908 or 8-1909, and
13 amendments thereto, within two years, after two prior convictions of
14 K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon
15 conviction shall be fined two times the applicable amount from one, but
16 not both, of the schedules listed in the uniform fine schedule contained
17 in subsection (c). For a fourth and each succeeding violation of K.S.A. 8-
18 1908 or 8-1909, and amendments thereto, within two years after three
19 prior convictions of K.S.A. 8-1908 or 8-1909, and amendments thereto,
20 such person, upon conviction shall be fined $2\frac{1}{2}$ times the applicable
21 amount from one, but not both, of the schedules listed in the uniform
22 fine schedule contained in subsection (c).

23 (g) Fines listed in the uniform fine schedule contained in subsection
24 (c) relating to exceeding the maximum speed limit, shall be doubled if a
25 person is convicted of exceeding the maximum speed limit in a school
26 zone authorized under subsection (a)(4) of K.S.A. 8-1560, and
27 amendments thereto.

28 Sec. 3. K.S.A. 2009 Supp. 8-2503 is hereby amended to read as
29 follows: 8-2503. (a) Except as provided in K.S.A. 8-1344 and 8-1345, and
30 amendments thereto, and in subsection (b) or (c), each ~~front seat~~
31 occupant of a passenger car manufactured with safety belts in compliance
32 with federal motor vehicle safety standard no. 208, who is 18 years of age
33 or older, shall have a safety belt properly fastened about such person's
34 body at all times when the passenger car is in motion.

35 (b) Each occupant of a passenger car manufactured with safety belts
36 in compliance with federal motor vehicle safety standard no. 208, who is
37 at least 14 years of age but less than 18 years of age, shall have a safety
38 belt properly fastened about such person's body at all times when the
39 passenger car is in motion.

40 (c) This section does not apply to:

41 (1) An occupant of a passenger car who possesses a written statement
42 from a licensed physician that such person is unable for medical reasons
43 to wear a safety belt system;

1 (2) carriers of United States mail while actually engaged in delivery
2 and collection of mail along their specified routes;

3 (3) newspaper delivery persons while actually engaged in delivery of
4 newspapers along their specified routes; or

5 (4) an occupant of a passenger car required to be protected by a safety
6 restraining system under the child passenger safety act.

7 (d) The secretary of transportation shall initiate an educational
8 program designed to encourage compliance with the safety belt usage
9 provisions of this act.

10 (e) The secretary shall evaluate the effectiveness of this act and shall
11 include a report of its findings in the annual evaluation report on its
12 highway safety plan that it submits under 23 U.S.C. 402.

13 ~~(f) Law enforcement officers shall not stop drivers for violations of~~
14 ~~subsection (a) in the absence of another violation of law. A citation for~~
15 ~~violation of subsection (a) shall not be issued without citing the violation~~
16 ~~that initially caused the officer to effect the enforcement stop.~~

17 Sec. 4. K.S.A. 2009 Supp. 8-2504 is hereby amended to read as
18 follows: 8-2504. (a) (1) From and after ~~July 1, 2007, and prior to January~~
19 ~~1, 2008~~ *the effective date of this act and prior to June 30, 2010*, a law
20 enforcement officer shall issue a warning citation to anyone violating
21 subsection ~~(b)~~ (a) of K.S.A. 8-2503, and amendments thereto;

22 (2) *on and after June 30, 2010*, persons violating subsection (a) of
23 K.S.A. 8-2503, and amendments thereto, shall be fined ~~\$30~~ \$60 including
24 court costs; and

25 (3) ~~from and after January 1, 2008~~, persons violating subsection (b)
26 of K.S.A. 8-2503, and amendments thereto, shall be fined \$60 including
27 court costs.

28 (b) No court shall report violation of this act to the department of
29 revenue.

30 (c) Evidence of failure of any person to use a safety belt shall not be
31 admissible in any action for the purpose of determining any aspect of
32 comparative negligence or mitigation of damages.

33 Sec. 5. K.S.A. 2009 Supp. 8-2118, 8-2503 and 8-2504 are hereby
34 repealed.

35 Sec. 6. This act shall take effect and be in force from and after its
36 publication in the Kansas register.