

As Amended by House Committee

Session of 2010

HOUSE BILL No. 2439

By Committee on Transportation

1-13

10 AN ACT regulating traffic; prohibiting the sending, reading or writing of  
11 text messages while operating a motor vehicle; amending K.S.A. 2009  
12 Supp. 8-2118 and repealing the existing section.  
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14 *Be it enacted by the Legislature of the State of Kansas:*

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

16 (1) “Wireless communication device” means any wireless electronic  
17 communication device that provides for voice or data communication be-  
18 tween two or more parties, including, but not limited to, a mobile or  
19 cellular telephone, a text messaging device, a personal digital assistant  
20 that sends or receives messages, an audio-video player that sends or re-  
21 ceives messages or a laptop computer. **“Wireless communication de-  
22 vice” does not include a device which is voice-operated and which  
23 allows the user to send or receive a text based communication with-  
24 out the use of either hand, except to activate or deactivate a feature  
25 or function.**

26 (2) “Write, send or read a written communication” means using a  
27 wireless communication device to manually type, send or read a written  
28 communication, including, but not limited to, a text message, instant mes-  
29 sage or electronic mail.

30 (b) Except as provided in subsections (c) and (d), no person shall  
31 operate a motor vehicle on a public road or highway while using a wireless  
32 communications device to write, send or read a written communication.

33 (c) The provisions of subsection (b) shall not apply to:

34 (1) ~~An authorized emergency vehicle;~~ **A law enforcement officer  
35 or emergency service personnel acting within the course and scope  
36 of the law enforcement officer’s or emergency service personnel’s  
37 employment;**

38 (2) a motor vehicle stopped off the regular traveled portion of the  
39 roadway;

40 (3) a person who reads, selects or enters a telephone number or name  
41 in a wireless communications device for the purpose of making or re-  
42 ceiving a phone call; or

43 (4) a person using a global positioning or navigational system.

1 (d) The provisions of subsection (b) shall not prohibit a person from  
2 using a wireless communications device while operating a moving motor  
3 vehicle to:

- 4 (1) Report current or ongoing illegal activity to law enforcement;
- 5 (2) prevent ~~eminent~~ **imminent** injury to a person or property; or
- 6 (3) relay information between transit or for-hire operator and the  
7 operator’s dispatcher, in which the device is permanently affixed to the  
8 motor vehicle.

9 (e) From and after the effective date of this act and prior to July 1,  
10 2011, a law enforcement officer shall issue a warning citation to anyone  
11 violating subsection (b).

12 (f) This section shall be part of and supplemental to the uniform act  
13 regulating traffic on highways.

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

21 (b) Prior to the time specified in the notice to appear, a person  
22 charged with a traffic infraction may enter a written appearance, waive  
23 right to trial, plead guilty or no contest and pay the fine for the violation  
24 as specified in the uniform fine schedule in subsection (c) and court costs  
25 provided by law. Payment may be made by mail or in person and may be  
26 by personal check. The traffic citation shall not have been complied with  
27 if a check is not honored for any reason, or if the fine and court costs are  
28 not paid in full. When a person charged with a traffic infraction makes  
29 payment without executing a written waiver of right to trial and plea of  
30 guilty or no contest, the payment shall be deemed such an appearance,  
31 waiver of right to trial and plea of no contest.

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

38 <i>Description of Offense</i>	<i>Statute</i>	<i>Fine</i>
39 Refusal to submit to a preliminary breath test	8-1012	\$90
40 Unsafe speed for prevailing conditions	8-1557	\$60

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1	Exceeding maximum speed limit; or speeding	8-1558	1-10 mph over the limit, \$30
2	in zone posted by the state department of	to	11-20 mph over the limit,
3	transportation; or speeding in locally posted	8-1560	\$30 plus \$6 per mph over
4	zone	8-1560a	10 mph over the limit;
5		or	21-30 mph over the limit,
6		8-1560b	\$90 plus \$9 per mph over
7			20 mph over the limit;
8			31 and more mph over the
9			limit, \$180 plus \$15 per
10			mph over 30 mph over the
11			limit;
12	Disobeying traffic control device	8-1507	\$60
13	Violating traffic control signal	8-1508	\$60
14	Violating pedestrian control signal	8-1509	\$30
15	Violating flashing traffic signals	8-1510	\$60
16	Violating lane-control signal	8-1511	\$60
17	Unauthorized sign, signal, marking or device	8-1512	\$30
18	Driving on left side of roadway	8-1514	\$60
19	Failure to keep right to pass oncoming vehicle	8-1515	\$60
20	Improper passing; increasing speed when	8-1516	\$60
21	passed		
22	Improper passing on right	8-1517	\$60
23	Passing on left with insufficient clearance	8-1518	\$60
24	Driving on left side where curve, grade,	8-1519	\$60
25	intersection railroad crossing, or obstructed		
26	view		
27	Driving on left in no-passing zone	8-1520	\$60
28	Unlawful passing of stopped emergency	8-1520a	\$60
29	vehicle		
30	Driving wrong direction on one-way road	8-1521	\$60
31	Improper driving on laned roadway	8-1522	\$60
32	Following too close	8-1523	\$60
33	Improper crossover on divided highway	8-1524	\$30
34	Failure to yield right-of-way at uncontrolled	8-1526	\$60
35	intersection		
36	Failure to yield to approaching vehicle when	8-1527	\$60
37	turning left		
38	Failure to yield at stop or yield sign	8-1528	\$60
39	Failure to yield from private road or driveway	8-1529	\$60
40	Failure to yield to emergency vehicle	8-1530	\$180
41	Failure to yield to pedestrian or vehicle	8-1531	\$90
42	working on roadway		
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1	Failure to comply with restrictions in road	8-1531a	\$30
2	construction zone		
3	Disobeying pedestrian traffic control device	8-1532	\$30
4	Failure to yield to pedestrian in crosswalk;	8-1533	\$60
5	pedestrian suddenly entering roadway;		
6	passing vehicle stopped for pedestrian at		
7	crosswalk		
8	Improper pedestrian crossing	8-1534	\$30
9	Failure to exercise due care in regard to	8-1535	\$30
10	pedestrian		
11	Improper pedestrian movement in crosswalk	8-1536	\$30
12	Improper use of roadway by pedestrian	8-1537	\$30
13	Soliciting ride or business on roadway	8-1538	\$30
14	Driving through safety zone	8-1539	\$30
15	Failure to yield to pedestrian on sidewalk	8-1540	\$30
16	Failure of pedestrian to yield to emergency	8-1541	\$30
17	vehicle		
18	Failure to yield to blind pedestrian	8-1542	\$30
19	Pedestrian disobeying bridge or railroad signal	8-1544	\$30
20	Improper turn or approach	8-1545	\$60
21	Improper “U” turn	8-1546	\$60
22	Unsafe starting of stopped vehicle	8-1547	\$30
23	Unsafe turning or stopping, failure to give	8-1548	\$60
24	proper signal; using turn signal unlawfully		
25	Improper method of giving notice of intention	8-1549	\$30
26	to turn		
27	Improper hand signal	8-1550	\$30
28	Failure to stop or obey railroad crossing signal	8-1551	\$180
29	Failure to stop at railroad crossing stop sign	8-1552	\$120
30	Certain hazardous vehicles failure to stop at	8-1553	\$180
31	railroad crossing		
32	Improper moving of heavy equipment at	8-1554	\$60
33	railroad crossing		
34	Vehicle emerging from alley, private roadway,	8-1555	\$60
35	building or driveway		
36	Improper passing of school bus; improper use	8-1556	\$300
37	of school bus signals		
38	Improper passing of church or day-care bus;	8-1556a	\$180
39	improper use of signals		
40	Impeding normal traffic by slow speed	8-1561	\$30
41	Speeding on motor-driven cycle	8-1562	\$60
42	Speeding in certain vehicles or on posted	8-1563	\$30
43	bridge		

1	Improper stopping, standing or parking on	8-1569	\$30
2	roadway		
3	Parking, standing or stopping in prohibited	8-1571	\$30
4	area		
5	Improper parking	8-1572	\$30
6	Unattended vehicle	8-1573	\$30
7	Improper backing	8-1574	\$30
8	Driving on sidewalk	8-1575	\$30
9	Driving with view or driving mechanism	8-1576	\$30
10	obstructed		
11	Unsafe opening of vehicle door	8-1577	\$30
12	Riding in house trailer	8-1578	\$30
13	Improper driving in defiles, canyons, or on	8-1579	\$30
14	grades		
15	Coasting	8-1580	\$30
16	Following fire apparatus too closely	8-1581	\$60
17	Driving over fire hose	8-1582	\$30
18	Putting glass, etc., on highway	8-1583	\$90
19	Driving into intersection, crosswalk, or	8-1584	\$30
20	crossing without sufficient space on other		
21	side		
22	Improper operation of snowmobile on	8-1585	\$30
23	highway		
24	Parental responsibility of child riding bicycle	8-1586	\$30
25	Not riding on bicycle seat; too many persons	8-1588	\$30
26	on bicycle		
27	Clinging to other vehicle	8-1589	\$30
28	Improper riding of bicycle on roadway	8-1590	\$30
29	Carrying articles on bicycle; one hand on	8-1591	\$30
30	handlebars		
31	Improper bicycle lamps, brakes or reflectors	8-1592	\$30
32	Improper operation of motorcycle; seats;	8-1594	\$30
33	passengers, bundles		
34	Improper operation of motorcycle on laned	8-1595	\$60
35	roadway		
36	Motorcycle clinging to other vehicle	8-1596	\$30
37	Improper motorcycle handlebars or passenger	8-1597	\$60
38	equipment		
39	Motorcycle helmet and eye-protection	8-1598	\$30
40	requirements		
41	Unlawful riding on vehicle	8-1578a	\$60
42	Unlawful operation of all-terrain vehicle	8-15,100	\$60
43	Unlawful operation of low-speed vehicle	8-15,101	\$60

1	Littering	8-15,102	\$100
2	Disobeying school crossing guard	8-15,103	\$60
3	Unlawful operation of micro utility truck	8-15,106	\$60
4	Failure to remove vehicles in accidents	8-15,107	\$60
5	Unlawful operation of golf cart	8-15,108	\$60
6	Unlawful operation of work-site utility vehicle	8-15,109	\$60
7	<i>Unlawful text messaging</i>	<i>section 1</i>	<i>\$100</i>
8	Equipment offenses that are not	8-1701	\$60
9	misdemeanors		
10	Driving without lights when needed	8-1703	\$30
11	Defective headlamps	8-1705	\$30
12	Defective tail lamps	8-1706	\$30
13	Defective reflector	8-1707	\$30
14	Improper stop lamp or turn signal	8-1708	\$30
15	Improper lighting equipment on certain	8-1710	\$30
16	vehicles		
17	Improper lamp color on certain vehicles	8-1711	\$30
18	Improper mounting of reflectors and lamps on	8-1712	\$30
19	certain vehicles		
20	Improper visibility of reflectors and lamps on	8-1713	\$30
21	certain vehicles		
22	No lamp or flag on projecting load	8-1715	\$60
23	Improper lamps on parked vehicle	8-1716	\$30
24	Improper lights, lamps, reflectors and	8-1717	\$30
25	emblems on farm tractors or slow-moving		
26	vehicles		
27	Improper lamps and equipment on	8-1718	\$30
28	implements of husbandry, road machinery		
29	or animal-drawn vehicles		
30	Unlawful use of spot, fog, or auxiliary lamp	8-1719	\$30
31	Improper lamps or lights on emergency	8-1720	\$30
32	vehicle		
33	Improper stop or turn signal	8-1721	\$30
34	Improper vehicular hazard warning lamp	8-1722	\$30
35	Unauthorized additional lighting equipment	8-1723	\$30
36	Improper multiple-beam lights	8-1724	\$30
37	Failure to dim headlights	8-1725	\$60
38	Improper single-beam headlights	8-1726	\$30
39	Improper speed with alternate lighting	8-1727	\$30
40	Improper number of driving lamps	8-1728	\$30
41	Unauthorized lights and signals	8-1729	\$30
42	Improper school bus lighting equipment and	8-1730	\$30
43	warning devices		

1	Unauthorized lights and devices on church or	8-1730a	\$30
2	day-care bus		
3	Improper lights on highway construction or	8-1731	\$30
4	maintenance vehicles		
5	Defective brakes	8-1734	\$30
6	Defective or improper use of horn or warning	8-1738	\$30
7	device		
8	Defective muffler	8-1739	\$30
9	Defective mirror	8-1740	\$30
10	Defective wipers; obstructed windshield or	8-1741	\$30
11	windows		
12	Improper tires	8-1742	\$30
13	Improper flares or warning devices	8-1744	\$30
14	Improper use of vehicular hazard warning	8-1745	\$30
15	lamps and devices		
16	Improper air-conditioning equipment	8-1747	\$30
17	Improper safety belt or shoulder harness	8-1749	\$30
18	Improper wide-based single tires	8-1742b	\$60
19	Improper compression release engine braking	8-1761	\$60
20	system		
21	Defective motorcycle headlamp	8-1801	\$30
22	Defective motorcycle tail lamp	8-1802	\$30
23	Defective motorcycle reflector	8-1803	\$30
24	Defective motorcycle stop lamps and turn	8-1804	\$30
25	signals		
26	Defective multiple-beam lighting	8-1805	\$30
27	Improper road-lighting equipment on motor-	8-1806	\$30
28	driven cycles		
29	Defective motorcycle or motor-driven cycle	8-1807	\$30
30	brakes		
31	Improper performance ability of brakes	8-1808	\$30
32	Operating motorcycle with disapproved	8-1809	\$30
33	braking system		
34	Defective horn, muffler, mirrors or tires	8-1810	\$30
35	Unlawful statehouse parking	75-4510a	\$15
36	Exceeding gross weight of vehicle or	8-1909	Pounds Overweight
37	combination		up to 1000 ..... \$25
38			1001 to 2000 ..... 3¢ per pound
39			2001 to 5000 ..... 5¢ per pound
40			5001 to 7500 ..... 7¢ per pound
41			7501 and over .. 10¢ per pound
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1	Exceeding gross weight on any axle or tandem,	8-1908	Pounds Overweight
2	triple or quad axles		up to 1000 ..... \$25
3			1001 to 2000 ..... 3¢ per pound
4			2001 to 5000 ..... 5¢ per pound
5			5001 to 7500 ..... 7¢ per pound
6			7501 and over .. 10¢ per pound
7	Failure to obtain proper registration, clearance	66-1324	\$272
8	or to have current certification		
9	Insufficient liability insurance for motor	66-1,128	\$122
10	carriers	or 66-1314	
11	Failure to obtain interstate motor fuel tax	79-34,122	\$122
12	authorization		
13	No authority as private or common carrier	66-1,111	\$122
14	Violation of motor carrier safety rules and	66-1,129	\$100
15	regulations, except for violations specified in		
16	subsection (b)(2) of K.S.A. 66-1,130, and		
17	amendments thereto		

18 (d) Traffic offenses classified as traffic infractions by this section shall  
19 be classified as ordinance traffic infractions by those cities adopting  
20 ordinances prohibiting the same offenses. A schedule of fines for all  
21 ordinance traffic infractions shall be established by the municipal judge  
22 in the manner prescribed by K.S.A. 12-4305, and amendments thereto.  
23 Such fines may vary from those contained in the uniform fine schedule  
24 contained in subsection (c).

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

31 (f) For a second violation of K.S.A. 8-1908 or 8-1909, and  
32 amendments thereto, within two years after a prior conviction of K.S.A.  
33 8-1908 or 8-1909, and amendments thereto, such person, upon conviction  
34 shall be fined 1½ times the applicable amount from one, but not both,  
35 of the schedules listed in the uniform fine schedule contained in  
36 subsection (c). For a third violation of K.S.A. 8-1908 or 8-1909, and  
37 amendments thereto, within two years, after two prior convictions of  
38 K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon  
39 conviction shall be fined two times the applicable amount from one, but  
40 not both, of the schedules listed in the uniform fine schedule contained  
41 in subsection (c). For a fourth and each succeeding violation of K.S.A. 8-  
42 1908 or 8-1909, and amendments thereto, within two years after three  
43 prior convictions of K.S.A. 8-1908 or 8-1909, and amendments thereto,

1 such person, upon conviction shall be fined 2½ times the applicable  
2 amount from one, but not both, of the schedules listed in the uniform  
3 fine schedule contained in subsection (c).

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

9 Sec. 3. K.S.A. 2009 Supp. 8-2118 is hereby repealed.

10 Sec. 4. This act shall take effect and be in force from and after its  
11 publication in the statute book.