

HOUSE BILL No. 2612

By Committee on Judiciary

2-2

9 AN ACT concerning drivers' licenses and restrictions; relating to judg-
10 ments of restitution; amending K.S.A. 2009 Supp. 8-255 and repealing
11 the existing section.
12

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

14 Section 1. K.S.A. 2009 Supp. 8-255 is hereby amended to read as
15 follows: 8-255. (a) The division is authorized to restrict, suspend or revoke
16 a person's driving privileges upon a showing by its records or other suf-
17 ficient evidence the person:

18 (1) Has been convicted with such frequency of serious offenses
19 against traffic regulations governing the movement of vehicles as to in-
20 dicate a disrespect for traffic laws and a disregard for the safety of other
21 persons on the highways;

22 (2) has been convicted of three or more moving traffic violations com-
23 mitted on separate occasions within a 12-month period;

24 (3) is incompetent to drive a motor vehicle;

25 (4) has been convicted of a moving traffic violation, committed at a
26 time when the person's driving privileges were restricted, suspended or
27 revoked; ~~or~~

28 (5) is a member of the armed forces of the United States stationed
29 at a military installation located in the state of Kansas, and the authorities
30 of the military establishment certify that such person's on-base driving
31 privileges have been suspended, by action of the proper military author-
32 ities, for violating the rules and regulations of the military installation
33 governing the movement of vehicular traffic or for any other reason re-
34 lating to the person's inability to exercise ordinary and reasonable control
35 in the operation of a motor vehicle; *or*

36 (6) *has been ordered to pay a judgment of restitution, such judgment*
37 *has been filed pursuant to K.S.A. 60-4301 through 60-4305, and amend-*
38 *ments thereto, is delinquent by more than six months in satisfying such*
39 *judgment of restitution and has not agreed to a court approved payment*
40 *plan. Except as otherwise provided by law, whenever a restriction is*
41 *placed on a person's driving privileges pursuant to this subsection, a dis-*
42 *trict or municipal court may enter an order restricting the person's driv-*
43 *ing privileges to driving only under the following circumstances: (A) In*

1 *going to or returning from the person's place of employment or schooling;*
2 *(B) in the course of the person's employment; (C) during a medical emer-*
3 *gency; (D) in going to and returning from probation or parole meetings,*
4 *drug or alcohol counseling or any place the person is required to go to*
5 *attend an alcohol and drug safety action program as provided in K.S.A.*
6 *8-1008, and amendments thereto; (E) at such times of the day as may be*
7 *specified by the order; and (F) to such places as may be specified by the*
8 *order.*

9 (b) The division shall suspend a person's driving privileges when re-
10 quired by K.S.A. 8-262, 8-1014, 21-3765 or 41-727, and amendments
11 thereto, and shall disqualify a person's privilege to drive commercial mo-
12 tor vehicles when required by K.S.A. 8-2,142, and amendments thereto.
13 The division shall restrict a person's driving privileges when required by
14 K.S.A. 2009 Supp. 39-7,155, and amendments thereto.

15 (c) When the action by the division restricting, suspending, revoking
16 or disqualifying a person's driving privileges is based upon a report of a
17 conviction or convictions from a convicting court, the person may not
18 request a hearing but, within 30 days after notice of restriction, suspen-
19 sion, revocation or disqualification is mailed, may submit a written request
20 for administrative review and provide evidence to the division to show
21 the person whose driving privileges have been restricted, suspended, re-
22 voked or disqualified by the division was not convicted of the offense
23 upon which the restriction, suspension, revocation or disqualification is
24 based. Within 30 days of its receipt of the request for administrative
25 review, the division shall notify the person whether the restriction, sus-
26 pension, revocation or disqualification has been affirmed or set aside. The
27 request for administrative review shall not stay any action taken by the
28 division.

29 (d) Upon restricting, suspending, revoking or disqualifying the driv-
30 ing privileges of any person as authorized by this act, the division shall
31 immediately notify the person in writing. Except as provided by K.S.A.
32 8-1002 and 8-2,145, and amendments thereto, and subsections (c) and
33 (g), if the person makes a written request for hearing within 30 days after
34 such notice of restriction, suspension or revocation is mailed, the division
35 shall afford the person an opportunity for a hearing as early as practical
36 not sooner than five days nor more than 30 days after such request is
37 mailed. If the division has not revoked or suspended the person's driving
38 privileges or vehicle registration prior to the hearing, the hearing may be
39 held within not to exceed 45 days. Except as provided by K.S.A. 8-1002
40 and 8-2,145, and amendments thereto, the hearing shall be held in the
41 person's county of residence or a county adjacent thereto, unless the
42 division and the person agree that the hearing may be held in some other
43 county. Upon the hearing, the director or the director's duly authorized

1 agent may administer oaths and may issue subpoenas for the attendance
2 of witnesses and the production of relevant books and papers and may
3 require an examination or reexamination of the person. When the action
4 proposed or taken by the division is authorized but not required, the
5 division, upon the hearing, shall either rescind or affirm its order of re-
6 striction, suspension or revocation or, good cause appearing therefor, ex-
7 tend the restriction or suspension of the person's driving privileges, mod-
8 ify the terms of the restriction or suspension or revoke the person's driving
9 privileges. When the action proposed or taken by the division is required,
10 the division, upon the hearing, shall either affirm its order of restriction,
11 suspension, revocation or disqualification, or, good cause appearing there-
12 for, dismiss the administrative action. If the person fails to request a
13 hearing within the time prescribed or if, after a hearing, the order of
14 restriction, suspension, revocation or disqualification is upheld, the per-
15 son shall surrender to the division, upon proper demand, any driver's
16 license in the person's possession.

17 (e) In case of failure on the part of any person to comply with any
18 subpoena issued ~~in~~ on behalf of the division or the refusal of any witness
19 to testify to any matters regarding which the witness may be lawfully
20 interrogated, the district court of any county, on application of the divi-
21 sion, may compel obedience by proceedings for contempt, as in the case
22 of disobedience of the requirements of a subpoena issued from the court
23 or a refusal to testify in the court. Each witness who appears before the
24 director or the director's duly authorized agent by order or subpoena,
25 other than an officer or employee of the state or of a political subdivision
26 of the state, shall receive for the witness' attendance the fees and mileage
27 provided for witnesses in civil cases in courts of record, which shall be
28 audited and paid upon the presentation of proper vouchers sworn to by
29 the witness.

30 (f) The division, in the interest of traffic and safety, may establish or
31 contract with a private individual, corporation, partnership or association
32 for the services of driver improvement clinics throughout the state and,
33 upon reviewing the driving record of a person whose driving privileges
34 are subject to suspension under subsection (a)(2), may permit the person
35 to retain such person's driving privileges by attending a driver improve-
36 ment clinic. Any person other than a person issued a commercial driver's
37 license under K.S.A. 8-2,125 et seq., and amendments thereto, desiring
38 to attend a driver improvement clinic shall make application to the divi-
39 sion and such application shall be accompanied by the required fee. The
40 secretary of revenue shall adopt rules and regulations prescribing a
41 driver's improvement clinic fee which shall not exceed \$500 and such
42 rules and regulations deemed necessary for carrying out the provisions of
43 this section, including the development of standards and criteria to be

1 utilized by such driver improvement clinics. Amounts received under this
2 subsection shall be remitted to the state treasurer in accordance with the
3 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
4 each such remittance, the state treasurer shall deposit the same in the
5 state treasury as prescribed by subsection (f) of K.S.A. 8-267, and amend-
6 ments thereto.

7 (g) When the action by the division restricting a person's driving priv-
8 ileges is based upon certification by the secretary of social and rehabili-
9 tation services pursuant to K.S.A. 2009 Supp. 39-7,155, and amendments
10 thereto, the person may not request a hearing but, within 30 days after
11 notice of restriction is mailed, may submit a written request for admin-
12 istrative review and provide evidence to the division to show the person
13 whose driving privileges have been restricted by the division is not the
14 person certified by the secretary of social and rehabilitation services, did
15 not receive timely notice of the proposed restriction from the secretary
16 of social and rehabilitation services or has been decertified by the sec-
17 retary of social and rehabilitation services. Within 30 days of its receipt
18 of the request for administrative review, the division shall notify the per-
19 son whether the restriction has been affirmed or set aside. The request
20 for administrative review shall not stay any action taken by the division.

21 Sec. 2. K.S.A. 2009 Supp. 8-255 is hereby repealed.

22 Sec. 3. This act shall take effect and be in force from and after its
23 publication in the statute book.