

SESSION OF 2007

**SECOND CONFERENCE COMMITTEE REPORT BRIEF
HOUSE SUBSTITUTE FOR SENATE BILL NO. 35**

As Agreed to April 25, 2007

Brief*

House Sub. for SB 35 would:

- Clarify when a violation for speeding would not be reported by the Division of Motor Vehicles (DMV) and when it would not be a moving traffic violation;
- Amend the law regarding driving under the influence (DUI) of alcohol or drugs; and
- Clarify how time would be computed to determine if a request for an administrative hearing under the implied consent advisory law is timely filed with the Kansas Department of Revenue (KDOR).

Speeding

The bill would clarify that a violation for speeding not more than 10 miles per hour in excess of the maximum speed limit would not be reported by the DMV. In addition, a violation of a speed of 30 miles per hour up to 54 miles per hour, by not more than 6 miles per hour would not be a moving traffic violation.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

DUI

The bill also would incorporate HB 2012 and HB 2269 which would amend the law regarding driving under the influence of alcohol or drugs (DUI) to do the following:

- Prohibit a person convicted of DUI from obtaining a class “C” driver’s license for the operation of a motorized bicycle;
- Require that for an alcohol concentration of .15 or greater the driver’s license would be suspended for one year;
- Require that for an alcohol concentration of .08 or greater the driver’s license would be suspended one year for the second, third or fourth occurrence and permanently revoked for a fifth or subsequent occurrence;
- Require that for an alcohol concentration of .08 or more, for anyone under 21 years of age, would result in a suspended license for one year. On a fifth or subsequent occurrence, a drivers license would be revoked permanently;
- Require that for a first DUI test refusal, at the end of a year of suspension, a driver’s license would be restricted for a year to driving a motor vehicle with an ignition interlock device;
- Require that for a test failure with a blood alcohol concentration of .15 or greater on a first occurrence, a driver’s license would be suspended for one year and then restricted for one year to driving with an ignition interlock device. Proof of installation would be required:
 - On a second occurrence, suspension would be one year followed by restriction for two years to driving with an ignition interlock device;

- On a third occurrence, suspension would be one year followed by restriction for three years to driving with an ignition interlock device;
 - On a fourth occurrence, suspension would be one year followed by four years to driving with an ignition interlock device; and
 - On a fifth or subsequent occurrence, permanent revocation of a driver's license would occur;
- Require that, for a person under 21, a blood concentration of .15 or greater, on a first occurrence, suspend a driver's license for one year followed by restriction for one year to driving with an ignition interlock device. For second and subsequent occurrences, the penalties would be the same as outlined above;
 - Require that, in addition to any other penalty, upon a second or subsequent conviction, the court would order that each motor vehicle owned or leased by the convicted person would have to be equipped with an ignition interlock device or impounded or immobilized for a period of two years. All costs associated with the installation, maintenance, and removal of the ignition interlock device and all towing, impoundment, and storage fees or other immobilization costs would be paid by the convicted person; and
 - Require hearings to be held by telephone conference call unless a request is made that the hearing be held in person.

Computation of Time

The bill would clarify how time would be computed to determine if a request for an administrative hearing under the implied consent advisory law is filed timely with the KDOR.

Conference Committee Action

The Second Conference Committee agreed to the First Conference Committee report with the following amendments:

- Strike the DUI provisions that enhance the length of incarceration or the amount of fine; and
- Strike the provision creating the Department of Health and Environment Driving Under the Influence Expense Fund and County Jail Cost Assistance Fund.

The Second Conference Committee also agreed to include the provisions of SB 52, an act concerning a violation for speeding not more than 10 miles per hour, as passed by the House Committee and the provisions on computation of time.

Background

SB 35, as amended by the Senate Committee, would have clarified how time would be computed to determine if a request for an administrative hearing under the implied consent advisory law is filed timely with the Kansas Department of Revenue (KDOR).

House Sub. for SB 35, as amended by the House Committee, would incorporate the Senate Committee amendments and also incorporates HB 2012 and HB 2269 which would amend the law regarding driving under the influence of alcohol or drugs (DUI).

The First Conference Committee agreed to the House position with the following amendment:

- The Court may order incarceration in a KDOC facility, for a third or subsequent DUI conviction, for the provision of substance abuse treatment. The offender would be returned to the sheriff for the balance of the sentence

upon completion of the substance abuse treatment. The offender also may be returned to the sheriff if the Secretary of Corrections determines substance abuse treatment resources or a facility is not available, or the offender is not amenable to treatment for reasons specified in the bill, as amended.

The Conference Committee also agreed to add the provisions of SB 52, an act concerning a violation for speeding not more than 10 miles per hour, as passed by the House Committee.

On April 3, 2007, the House adopted the First Conference Committee Report on a vote of 122 to 0. The Senate rejected the First Conference Committee Report.

The Second Conference Committee agreed to the First Conference Committee report with the following amendments:

- Strike the DUI provisions that enhance the length of incarceration or the amount of fine; and
- Strike the provision creating the Department of Health and Environment Driving Under the Influence Expense Fund and County Jail Cost Assistance Fund.

The provisions regarding speeding and computation of time were not amended and were kept in the bill.

speeding; KDOR; DMV

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