

SESSION OF 2010

**SUPPLEMENTAL NOTE ON
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2437**

As Recommended by Senate Committee on
Transportation

Brief*

Senate Sub. for HB 2437 would enact a ban on texting while driving and would allow an officer to stop a vehicle if each occupant, including all adults, is not properly restrained. The bill would become effective upon publication in the *Kansas Register*.

Texting Ban Provisions

The bill would prohibit text messaging while operating a moving motor vehicle. The bill would provide that a first conviction would be a traffic infraction subject to a \$100 fine pursuant to the uniform fine schedule, and a second or subsequent conviction would be a class B misdemeanor. A person convicted of this crime who causes serious injury to another person as a result of the violation would be guilty of a class A misdemeanor. In addition to any other penalty, the court could suspend the person's driving privileges for 90 days.

The bill specifies that:

- A handheld wireless communication device would include devices such as wireless telephones and laptop computers but would not include a voice-operated or hands-free device;
- "Text messaging" would mean a communication sent by addressing the communication to a person's telephone number;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Text messaging would not include an emergency, traffic, or weather alert or message related to the operation or navigation of a motor vehicle;
- A person would not be prohibited from reading, selecting, or entering a telephone number or name in a handheld wireless communication device for the purpose of making or receiving a phone call;
- It would not be unlawful to activate or deactivate a feature or function of a voice-operated or hands-free device; and
- It would not be unlawful to text message under the following circumstances:
 - During a medical emergency;
 - When reporting a safety hazard or requesting assistance relating to a safety hazard;
 - When reporting criminal activity or requesting assistance relating to criminal activity;
 - When providing roadside or medical assistance; and
 - When used by law enforcement officers or emergency service personnel acting within the scope and course of their employment.

Primary Seat Belt Provisions

The bill would require each adult occupant of a passenger car manufactured with safety belts to have a safety belt properly fastened around the occupant's body when the car is in motion. Current law requires those under 18 and adults in the front seat to use safety belts and includes certain exceptions, which would not be amended by the bill.

The bill also would allow a law enforcement officer to stop a vehicle if any adult occupant is not properly belted, by removing a provision that prohibits such a stop.

The bill would increase the fine for violation by an adult from \$30 to \$60, including court costs.

From the effective date until before June 30, 2010, the bill would require a law enforcement officer to issue a warning citation for a violation.

Background

The texting ban provisions in this bill are the same as those in SB 351 as amended by the Senate Committee on Judiciary and the Senate Committee of the Whole. The primary seat belt provisions are the same as those in SB 483. Both of those bills have passed in the Senate during the 2010 Session.

The original HB 2437 would have, by removing an exemption, required those who receive a "Support Kansas Arts" license plate to pay a \$40 personalized license plate fee in addition to other fees applicable to that license plate.

The proponents of the texting ban provisions, as introduced, were Representative Raj Goyle and representatives of the Kansas Department of Transportation (KDOT), the AAA Allied Group, the Kansas Association of Chiefs of Police, the Kansas Peace Officers Association, the Kansas Department of Health and Environment Bureau of Health Promotions, AT&T, the Alliance of Automobile Manufacturers, the Kansas Highway Patrol, the Kansas County Highway Association, Farmers Insurance Group, and private citizens. Neutral testimony was provided by a representative of the Kansas Sentencing Commission.

Proponents of the primary seat belt provisions were the manager of traffic safety at KDOT; the director of the Division of Health at the Kansas Department of Health and Environment; a representative of the Kansas Highway Patrol; a representative of the Kansas Association of Chiefs of Police, the Kansas Sheriffs Association, and the Kansas Peace Officers Association; and a representative of the Kansas State Nurses Association and the Kansas Emergency Nurses

Association. Written testimony was submitted by representatives of AAA Kansas, Safe Kids Kansas, the Alliance of Auto Manufacturers, and The State Farm Insurance Companies.

According to the fiscal note on SB 351, the texting ban provisions, as introduced, KDOT states it would include the provisions in its public information and education programs and any additional cost could be absorbed within existing agency resources. The Kansas Department of Revenue indicates there would be no additional administrative costs to the agency for those provisions. Because of the new crime created by the bill, the Office of Judicial Administration indicates there would be a fiscal effect on the operations of the court system, but a precise fiscal effect cannot be determined and could most likely be accommodated within existing resources. A Kansas Sentencing Commission fiscal note on the original bill may not be applicable because the felonies in the original bill were deleted from it.

According to the fiscal note on SB 483, the primary seat belt provisions, enactment would qualify KDOT to receive \$465,000 of additional federal safety monies annually under the Occupant Protection Incentive Grant Program and an additional federal grant of \$11.2 million. Of the latter grant, KDOT would be required to spend at least \$1 million on behavior safety programs; KDOT testified that the remainder could be spent in ways including highway improvements. The fiscal note also states that KDOT's Traffic Records Enhancement Fund receives 2.5 percent of fines collected for traffic infractions and, with the increase in the fine amount and an expected increase in the number of tickets, revenue to that Fund could increase by \$34,500 annually. The Office of Judicial Administration also expected an increase in revenue but cannot provide an estimate, according to the fiscal note.