

Report of the Special Committee on Restricted Driving Privileges to the 2024 Kansas Legislature

CHAIRPERSON: Senator Rick Wilborn

VICE-CHAIRPERSON: Representative Fred Patton

OTHER MEMBERS: Senators Elaine Bowers, Brenda Dietrich, Oletha Faust-Goudeau, and Mike Petersen; and Representatives Avery Anderson, Sydney Carlin, Shannon Francis, Lynn Melton, and Lance W. Neelly

STUDY TOPIC

The Committee is directed to:

- Consider policy options and changes to the law pertaining to eligibility for certain individuals for restricted driving privileges (including those proposed in 2023 SB 2), which will include:
 - Receiving testimony regarding restricted driving privileges from the Department of Revenue and other relevant state agencies, the Legislative Division of Post Audit, the Judicial Branch and municipal courts, law enforcement agencies, business owners and groups, automobile insurance companies, city and county officials, and any other relevant stakeholders.

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Special Committee on Restricted Driving Privileges

REPORT

Conclusions and Recommendations

The Committee made the following recommendations.

Recommendations for Legislative Review and Consideration

The Committee recommended the Legislature consider or review the following topics:

- Consider a change in the suspension process to allow for an initial period during which a person's driver's license would not be immediately suspended;
- Explore the possibility of providing for repayment plans and improved communication between the Kansas Department of Revenue and the courts;
- Review traffic citations that could be excluded from citations for which driver noncompliance could result in a driver's license suspension;
- Consider limiting reinstatement fees to a single administrative fee per reinstatement, rather than a reinstatement fee for each charge;
- Consider providing judicial discretion with regard to suspension and revocation; and
- Review the requirement that certain drivers maintain SR-22 insurance.

License Revocation for Failure to Comply with a Citation

The Committee recommends the Legislature, with regard to any individual whose license has been revoked solely for driving when such person's license was revoked for failure to comply with a traffic citation, provide for full restoration of driving privileges once the individual complies with all outstanding fines, fees, and court obligations.

License Restrictions

The Committee recommends the Legislature, with regard to license restrictions:

- Provide restricted driver's licenses for drivers making attempts to comply with citations and be accountable;
- Limit the number of opportunities an individual has to apply for restrictions;

- Reform law pertaining to failure to comply to begin with restrictions, with suspension subsequent to continued noncompliance; and
- Include driving children to and from child care in the permissible circumstances when restricted driving privileges are granted pursuant to KSA 8-2110.

Judicial Branch Involvement

The Committee recommends, with regard to involvement of the Judicial Branch:

- One of the standing legislative committees request the Judicial Council review traffic violations that could be excluded as grounds for suspension for failure to comply;
- The Legislature request a municipal courts association review policies relating to payment of traffic-related debt;
- The Office of Judicial Administration report progress to the Legislature at the beginning of the 2024 Legislative Session on the development of a universal form for petitioning courts for waiver or modification of traffic citation debts; and
- Kansas Legal Services be asked to share with the Judicial Council its form for petitioning a court to waive fines and fees.

Proposed Legislation: None.

BACKGROUND

The Special Committee on Restricted Driving Privileges (Committee) was created by the Legislative Coordinating Council to evaluate various policy options, including provisions proposed in 2023 SB 2, and to make recommendations for reform of laws relating to restricted driving privileges for certain drivers. The Committee was authorized to meet for two days.

As part of its evaluation, the Committee was authorized to receive testimony regarding restricted driving privileges from the Kansas Department of Revenue (KDOR) and other relevant state agencies, the Legislative Division of Post Audit, the Judicial Branch and municipal courts, law enforcement agencies, business owners and groups, automobile insurance companies, city and county officials, and any other relevant stakeholders.

During the 2023 Legislative Session, the Senate Committee on Transportation held a

hearing on SB 2, authorizing certain individuals with revoked driver's licenses to be eligible for restricted driving privileges, and subsequently recommended the bill be passed as amended. The bill was subsequently withdrawn from the Senate Calendar and referred to the Senate Committee on Judiciary, where an additional hearing was held on the bill. The bill did not advance from that committee, and a suggestion was made that an interim study of the topic could be appropriate in advance of the 2024 Legislative Session.

With regard to restricted driving privileges, KSA 8-2110 authorizes an individual to apply for restricted driving privileges in lieu of suspension for failure to comply with a traffic citation, which is failure to appear in court or otherwise comply with a citation, including failure to pay required fines. Restricted driving privileges permit driving under limited circumstances for up to one year, or until the terms of the traffic citation are fulfilled. Permitted travel includes driving to and from work, school, medical appointments, emergency care, court-required obligations, or in the course of employment-related duties.

COMMITTEE ACTIVITIES

The Committee met at the Statehouse on August 29 and October 10, 2023. At the August 29 meeting, the Committee reviewed information from various perspectives on driver's license suspension and revocation as presented by staff, state agency officials, and invited conferees, followed by discussion and requests for additional information from Committee staff to be provided at the subsequent meeting. At the October 10 meeting, the Committee reviewed follow-up information, held a panel discussion with previous conferees, and developed recommendations for its report.

August 29, 2023, Meeting

Staff Overview

Kansas Legislative Research Department (KLRD) staff provided an overview of key definitions and recent legislation regarding reform of restricted driving privileges, including relevant provisions of bills enacted since 2017 and bills introduced during the 2023 Session.

Office of Revisor of Statutes staff presented an overview of SB 2, around which much of the discussion throughout the day revolved.

Community Perspectives on License Suspension and Revocation

The Chairperson of the Sedgwick County Racial Profiling Advisory Board provided information on the community impact of driver's license suspension and revocation. The conferee highlighted economic impacts of this issue on individuals, noting license suspensions and revocations impose financial hardship on families and make it difficult to work and obtain housing, medical care, or day care services.

Another member of the Sedgwick County Racial Profiling Advisory Board provided additional testimony regarding the social and personal harms caused by current license suspension and revocation policies and indicated the need for reform of such policies.

The Executive Director of Kansas Legal Services, Inc. (KLS) provided an overview of the services provided by KLS with regard to license

restoration. The conferee recommended the Committee consider:

- Providing additional legislative clarity as to what constitutes manifest hardship;
- Establishing a historical cutoff of outstanding fees;
- Providing funding for license reinstatement clinics; and
- Improving data transparency from KDOR.

A retired Executive Director of KLS provided an account of one person's experience with license suspension and the the impact of mandatory SR-22 insurance required when convicted of driving on a suspended license. The conferee recommended the Committee:

- Review the requirement for anyone convicted of driving while suspended to maintain SR-22 insurance continuously for 12 months; and
- Consider expanding restricted driving privileges to individuals whose licenses are administratively suspended for driving without insurance.

The Sedgwick County Commissioner for District 5 provided information on the community impact of driver's license suspension and revocation. The conferee noted driver's license suspension often contributes to cycles of poverty; a disproportionate number of license suspensions in Kansas occur in Sedgwick County, accounting for one-third of total suspensions statewide; and Kansas has a disproportionate number of suspensions in comparison with other states. The conferee recommended the Committee consider:

- Making suspensions less punitive by removing mandatory sentencing;
- Removing the indefinite look-back of offenses by allowing offenses to be automatically removed from one's record eventually; and

- Providing restricted licenses for drivers making attempts to comply and be accountable.

An attorney with the League of Kansas Municipalities provided testimony regarding the priorities of the League in considering reforms of law pertaining to driving privileges, noting the organization is supportive of efforts to address cycles of indigency and recidivism but cautioning the Committee to ensure offenses jeopardizing road-user safety result in appropriate consequences.

Business and Insurer Perspectives on Driver's License Suspension and Revocation

The Senior Director of Government Affairs of the Kansas Chamber provided testimony in support of provisions of SB 2 and any efforts that would remove the barriers to employment and economic success.

An attorney and Chief Operating Officer of the Kansas Association of Insurance Agents provided testimony outlining the priorities of the organization, noting the association does not have a position on restricted license policy, such as that contained in SB 2, but did note allowing restricted driving privileges for a driver whose license is otherwise revoked would have an impact on the accessibility and cost of that driver's auto insurance. The conferee encouraged the Committee to consider policies that address the rising cost to obtain motor vehicle records, which is impacting the cost of insurance in Kansas.

A representative of the Kansas Association of Property and Casualty Insurance Companies provided written-only testimony indicating the association does not have relevant policy concerns with regard to restricted driving privileges, but did note a preference for policies to be considered to address the rising cost of motor vehicle records.

License Suspension and Revocation Procedures and Data

The manager of Driver Solutions, Division of Vehicles, KDOR, presented information on the administration of the restricted driver license program and the impact SB 2 would have on the

program, and also provided data that had been requested by the Committee.

The conferee indicated failure to comply with a traffic citation is the most common reason for driver's license suspension in Kansas. As of August 2023, the driver's licenses of 208,347 Kansas drivers were suspended. Of these, 123,913, or 59.5 percent, were due to failure to comply with a citation.

The conferee noted that in spite of the availability of the restricted driving privileges, relatively few drivers with suspensions for failure to comply take advantage of the program. In 2021, only 2,310 drivers applied for restricted driving privileges under KSA 8-2110, of which 1,978 were approved. The same year, 1,165 drivers completed the program. The conferee stated the reason for this under-utilization is not presently known.

Legal Perspectives on Driver's License Suspension and Revocation

A representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association provided testimony regarding the concerns of the associations he represents with respect to reform of license suspension and revocation, and he made recommendations to the Committee. The conferee recommended the Committee consider:

- Limiting the number of opportunities an individual has to apply for restrictions;
- Making the requirement of courts to notify KDOR of failure to comply with a citation discretionary instead of mandatory;
- Changing language requiring payment of all fines, court costs, and penalties within 30 days of notice to payment of amounts as ordered by the court;
- Limiting reinstatement fees to a single administrative fee per reinstatement, rather than a reinstatement fee for each charge;

- Reviewing traffic violations that could be excluded as grounds for suspension for failure to comply; and
- Reforming law pertaining to failure to comply to begin with restrictions, with suspension subsequent to continued noncompliance.
- Minimally limiting reinstatement fees to only charges resulting in a conviction; and
- Removing mandatory minimum jail sentences for second and third convictions of driving while suspended, though providing for some sort of mandatory fine.

An attorney for KLS provided highlights of his experiences representing clients in the Suspended License Intervention Program in Wyandotte County. The conferee endorsed the recommendation of the previous conferee to provide for license restrictions prior to suspension for failure to comply with a citation.

The Deputy Special Counsel with the Kansas Judicial Branch provided testimony from an administrative perspective on behalf of the courts. The conferee recommended the Committee consider limiting reinstatement fees to a single administrative fee per reinstatement, rather than a reinstatement fee for each charge.

An Assistant District Attorney of the 18th Judicial District of Kansas discussed concerns about SB 2 and provided policy recommendations, indicating a preference for focusing on how to keep people from being in a revoked or perpetually suspended status rather than simply managing individuals whose driving privileges are already withdrawn. The conferee recommended the Committee consider:

- Clarifying language in SB 2 as to whether habitual violators are included;
- Including in SB 2 cross-references to relevant statutes, such as KSA 8-285 or KSA 8-287, to help clarify the target population;
- Removing the mandatory 90-day suspension for driving while suspended in KSA 8-262(b)(1);
- Limiting reinstatement fees to a single administrative fee per reinstatement, rather than a reinstatement fee for each charge;

The Executive Director of the Police Athletic League of Kansas City, Kansas, submitted written-only testimony providing information about a program of the organization to provide driver education to low-income adolescents.

Additional Testimony

A Wichita business consultant and former Wichita traffic commissioner testified about personal experiences with financial insecurity attributed to license suspension and traffic-related debts. The discussion highlighted negative consequences of the experience in his life and the lives of those around him and the negative impacts that state policy can have on the workforce and Kansas communities.

Committee Discussion and Requests for Additional Information

Committee members discussed some preliminary recommendations and requested additional information from staff to be provided at the following meeting.

Committee members requested the following information be provided:

- How other states notify drivers of license suspension;
- Which traffic citations could be excluded from suspension for failure to comply;
- How other states have implemented payment plans;
- How Kansas courts currently utilize payment plans;

- The differences between suspension and revocation in current law and administrative practice; and
- Additional data that would help provide clarification of the population of interest for this reform.

Committee members made the following preliminary recommendations for the Legislature to consider or review:

- Consider a change in the suspension process to allow for an initial period in which a person's driver's license would not be immediately suspended;
- Explore the possibility of providing for repayment plans and improved communication between KDOR and the courts;
- Review traffic citations that could be excluded from citations for which driver noncompliance could result in a driver's license suspension;
- Consider limiting reinstatement fees to a single administrative fee per reinstatement, rather than a reinstatement fee for each charge;
- Consider providing judicial discretion with regard to suspension and revocation; and
- Review the requirement that certain drivers maintain SR-22 insurance.

October 10, 2023, Meeting

Staff Review of Requested Information

KLRD staff reviewed recommendations that the Committee and conferees made during the previous meeting and provided information requested by the Committee. Topics reviewed included information on other states' processes for notifying drivers of suspension; other states' implementation of payment plans for traffic-related debts; Kansas courts' utilization of

payment plans; differences between suspension and revocation in current law and administrative practice; and license suspension and revocation data obtained from KDOR motor vehicle records and Judicial Branch district court case data.

Office of Revisor of Statutes staff provided a review of traffic citations, as defined in KSA 8-2106, that can result in a suspension of driving privileges due to failure to comply with a traffic citation.

Conferee Panel Discussion with Committee

Conferees from the previous meeting were present and answered follow-up questions from the Committee.

CONCLUSIONS AND RECOMMENDATIONS

The Committee made the following recommendations.

Recommendations for Legislative Review

The Committee recommended the Legislature consider or review the following topics:

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- Include driving children to and from child care in the permissible circumstances when restricted driving privileges are granted pursuant to KSA 8-2110.

Judicial Branch Involvement

The Committee recommends, with regard to involvement of the Judicial Branch:

- One of the standing legislative committees request the Judicial Council conduct a review of traffic violations that could be excluded as grounds for suspension for failure to comply;
- The Legislature request a municipal courts association review policies relating to payment of traffic-related debt;
- The Office of Judicial Administration report progress to the Legislature at the beginning of the 2024 Legislative Session on the development of a universal form for petitioning courts for waiver or modification of traffic citation debts; and
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