

As Amended by Senate Committee

Session of 2023

HOUSE BILL No. 2216

By Committee on Judiciary

1-30

AN ACT concerning motor vehicles; relating to driving with a license that is canceled, suspended or revoked; removing the mandatory imprisonment term for a first offense in certain circumstances; amending K.S.A. 8-262 and repealing the existing section.

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

Section 1. K.S.A. 8-262 is hereby amended to read as follows: 8-262.

(a) (1) *Except as provided in subsections (a)(3), (a)(4) and (c), any person who drives a motor vehicle on any highway of this state at a time when such person's privilege so to do is canceled, suspended or revoked or while such person's privilege to obtain a driver's license is suspended or revoked pursuant to K.S.A. 8-252a, and amendments thereto, shall be guilty of a class B nonperson misdemeanor on the first conviction and a class A nonperson misdemeanor on the second or subsequent conviction. In addition to any other criminal penalties provided by law, any person convicted of a violation of this section shall be subject to a fine of not less than \$100.*

(2) No person shall be convicted under this section if such person was entitled at the time of arrest under K.S.A. 8-257, and amendments thereto, to the return of such person's driver's license.

(3) ~~Except as otherwise provided by~~ *in subsection (a)(4) or (c), every person convicted under of a violation of this section, committed while the person's privilege to drive or privilege to obtain a driver's license was suspended or revoked for any violation other than a violation of K.S.A. 8-2110, and amendments thereto, or any ordinance of any city, resolution of any county or a law of another state that prohibits the acts prohibited by those statutes other than K.S.A. 8-2110, and amendments thereto, shall be sentenced to at least five days' imprisonment and fined at least \$100 days of confinement and, upon a second conviction, shall not be eligible for parole until completion of five days' imprisonment days of confinement.*

(4) ~~Except as otherwise provided by~~ *in subsection (c), if a person: (A) Is convicted of a violation of this section, committed while the person's privilege to drive or privilege to obtain a driver's license was suspended or revoked for a violation of K.S.A. 8-2,144 or 8-1567, and amendments thereto, or any ordinance of any city or, resolution of any county or a law of another state, which ordinance or resolution or law that prohibits the*

1 acts prohibited by those statutes; and (B) is or has been also convicted of a
2 violation of K.S.A. 8-2,144 or 8-1567, and amendments thereto, or any
3 ordinance of any city ~~or~~, resolution of any county or law of another state,
4 ~~which ordinance or resolution or law~~ that prohibits the acts prohibited by
5 those statutes, committed while the person's privilege to drive or privilege
6 to obtain a driver's license was so suspended or revoked, the person shall
7 not be eligible for suspension of sentence, probation or parole until the
8 person has served at least 90 ~~days' imprisonment~~ *days of confinement*, and
9 any fine imposed on such person shall be in addition to such a term of
10 ~~imprisonment~~ *confinement*.

11 (b) (1) Except as provided ~~by~~ *in* subsection (b)(2), the division, upon
12 receiving a record of the conviction of any person under this section, or
13 any ordinance of any city or resolution of any county or a law of another
14 state which is in substantial conformity with this section, upon a charge of
15 driving a vehicle while the license of such person is revoked or suspended,
16 shall extend the period of such suspension or revocation for an additional
17 period of 90 days.

18 (2) For any person found guilty of driving a vehicle while the license
19 of such person is suspended for violating K.S.A. 8-2110, and amendments
20 thereto, such offense shall not extend the additional period of suspension
21 pursuant to subsection (b)(1).

22 (c) (1) The person found guilty of a class A nonperson misdemeanor
23 on a third or subsequent conviction of this section shall be sentenced to not
24 less than 90 ~~days' imprisonment~~ *days of confinement* and fined not less
25 than \$1,500 if such person's privilege to drive a motor vehicle is canceled,
26 suspended or revoked because such person:

27 (A) Refused to submit and complete any test of blood, breath or urine
28 requested by law enforcement excluding the preliminary screening test as
29 set forth in K.S.A. 8-1012, and amendments thereto;

30 (B) was convicted of violating the provisions of K.S.A. 40-3104, and
31 amendments thereto, relating to motor vehicle liability insurance coverage;

32 (C) was convicted of vehicular homicide, K.S.A. 21-3405, prior to its
33 repeal, or K.S.A. 2022 Supp. 21-5406, and amendments thereto,
34 involuntary manslaughter while driving under the influence of alcohol or
35 drugs, K.S.A. 21-3442, prior to its repeal, or involuntary manslaughter as
36 defined in K.S.A. 2022 Supp. 21-5405(a)(3) and (a)(5), and amendments
37 thereto, or any other murder or manslaughter crime resulting from the
38 operation of a motor vehicle; or

39 (D) was convicted of being a habitual violator, K.S.A. 8-287, and
40 amendments thereto.

41 (2) The person convicted shall not be eligible for release on
42 probation, suspension or reduction of sentence or parole until the person
43 has served at least 90 ~~days' imprisonment~~ *days of confinement*. The 90

1 ~~days' imprisonment~~ *days of confinement* mandated by this subsection may
2 be served in a work release program only after such person has served 48
3 consecutive ~~hours' imprisonment~~, ~~provided~~ *hours of confinement and only*
4 *if* such work release program requires such person to return to confinement
5 at the end of each day in the work release program. The court may place
6 the person convicted under a house arrest program pursuant to K.S.A.
7 2022 Supp. 21-6609, and amendments thereto, or any municipal ordinance
8 to serve the remainder of the minimum sentence only after such person has
9 served 48 consecutive ~~hours' imprisonment~~ *hours of confinement*.

10 (d) For the purposes of determining whether a conviction is a first,
11 second, third or subsequent conviction in sentencing under this section,
12 "conviction" includes a conviction of a violation of any ordinance of any
13 city~~—or~~, resolution of any county or a law of another state that is in
14 substantial conformity with this section.

15 Sec. 2. K.S.A. 8-262 is hereby repealed.

16 Sec. 3. This act shall take effect and be in force from and after its
17 publication in the ~~statute book~~ ***Kansas register***.