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## Testimony to the Senate Committee on Transportation in Support of SB 41

February 5, 2019

Chairman Petersen, Vice Chairman Goddard, Ranking Member Pettey, and Members of the Committee:

The Johnson County Sheriff's Office asks for your support for Senate Bill 41. This bill was brought at the request of our Traffic and Patrol Division. There is confusion concerning **K.S.A. 8-2503, wearing of seat belt required** regarding whether the offense is a Class C misdemeanor or whether it is a traffic infraction.

**K.S.A. 8-2116. Classification of violations; traffic infractions; misdemeanors; repeat misdemeanor offenses**, is the controlling statute on whether a traffic offense is an infraction or a misdemeanor. The statute is printed below:

*(a) Every person convicted of violating any of the sections listed in the uniform fine schedule in K.S.A. 8-2118 is guilty of a traffic infraction.*

*(b) Except where another penalty or class of misdemeanor is provided by statute, every person convicted of violating any provision of the uniform act regulating traffic on highways designated as a misdemeanor is guilty of a class C misdemeanor, except that upon a second such offense committed within one year after the date of the first such offense, upon conviction thereof, such person is guilty of a class B misdemeanor, and upon a third or subsequent such offense committed within one year after the first such offense, upon conviction thereof, such person is guilty of a class A misdemeanor.*

K.S.A 8-2503 is not listed in the uniform fine schedule. The fine for the offense is found in K.S.A. 8-2504. That fine is either \$30 or \$60 depending on whether an adult or a minor is in violation of the statute. Statute also specifies that the violation shall not be reported to the Kansas Department of Revenue and that a violation cannot be used in a civil action. However, varied opinions issued by legal staff from different agencies exist as to whether the seat belt statute is a traffic infraction or a misdemeanor.

Our amendment to the statute clarifies the seat belt violation is a traffic infraction, and keeps the provisions that the violation is not reported to the Department of Revenue; that failure to use a seat belt is not admissible to determine negligence or damages; and that no city, county, subdivision or local authority shall enact or enforce a law in conflict with K.S.A. 8-2504.

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This is a technical amendment. It doesn't change statute but makes the intent of the statute clear. A violation of K.S.A. 8-2503 is simply a monetary fine.

We ask that you recommend Senate Bill 41 favorably for passage.

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