

STATE OF KANSAS

SENATE CHAMBER

MADAM PRESIDENT:

I move to amend **HB 2104**, as amended by House Committee, on page 6, following line 25, by inserting:

"Sec. 3. K.S.A. 2018 Supp. 8-1014 is hereby amended to read as follows: 8-1014. (a) Except as provided by subsection (e) and K.S.A. 8-2,142, and amendments thereto, if a person refuses a test, the division, pursuant to K.S.A. 8-1002, and amendments thereto, shall:

(1) On the person's first occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for two years to driving only a motor vehicle equipped with an ignition interlock device;

(2) on the person's second occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for three years to driving only a motor vehicle equipped with an ignition interlock device;

(3) on the person's third occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for four years to driving only a motor vehicle equipped with an ignition interlock device;

(4) on the person's fourth occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for five years to driving only a motor vehicle equipped with an ignition interlock device; and

(5) on the person's fifth or subsequent occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for 10 years to driving only a motor vehicle equipped with an ignition interlock device.

(b) (1) Except as provided by subsections (b)(2) and (e) and K.S.A. 8-2,142, and amendments thereto, if a person fails a test or has an alcohol or drug-related conviction in this state, the division shall:

(A) On the person's first occurrence, suspend the person's driving privileges for 30 days and at the end of the suspension, restrict the person's driving privileges or continue the suspension as provided by K.S.A. 8-1015(b), and amendments thereto;

(B) on the person's second occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for one year to driving only a motor vehicle equipped with an ignition interlock device;

(C) on the person's third occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for two years to driving only a motor vehicle equipped with an ignition interlock device;

(D) on the person's fourth occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for three years to driving only a motor vehicle equipped with an ignition interlock device; and

(E) on the person's fifth or subsequent occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for 10 years to driving only a motor vehicle equipped with an ignition interlock device.

(2) Except as provided by subsection (e) and K.S.A. 8-2,142, and amendments thereto, if a person fails a test or has an alcohol or drug-related conviction in this state and the person's blood or breath alcohol concentration is 0.15 or greater, the division shall:

(A) On the person's first occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for one year to driving only a motor vehicle equipped with an ignition interlock device;

(B) on the person's second occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for two years to driving only a motor vehicle equipped with an ignition interlock device;

(C) on the person's third occurrence, suspend the person's driving privileges for one year and at the end of the suspension restrict the person's driving privileges for three years to driving only a motor vehicle equipped with an ignition interlock device;

(D) on the person's fourth occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for four years to driving only a motor vehicle equipped with an ignition interlock device; and

(E) on the person's fifth or subsequent occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for 10 years to driving only a motor vehicle equipped with an ignition interlock device.

(3) Whenever a person's driving privileges have been restricted to driving only a motor vehicle equipped with an ignition interlock device for 10 years under this section, such person may petition any district court for relief from such restriction after five years of such restriction have been served. The court shall consider, but not be limited to, whether: (A) Such person's driving privileges have been restricted, suspended, revoked or disqualified pursuant to another action by the division or a court; and (B) such person proves installation, maintenance and use of an ignition interlock device approved by the division throughout the five-year period. If the court finds that the person's driving privileges should be restored, then the court shall electronically report such order to the division. The division, upon receiving such order, shall restore such person's driving privileges, unless such person's driving privileges have been restricted, suspended, revoked or disqualified pursuant to another action by the division or a court.

(c) Except as provided by subsection (e) and K.S.A. 8-2,142, and amendments thereto, if a

person who is less than 21 years of age fails a test or has an alcohol or drug-related conviction in this state, penalties shall be imposed pursuant to subsection (b).

(d) Whenever the division is notified by a provider, as defined in K.S.A. 8-1008, and amendments thereto, or a court that the person has failed to follow any recommendation made by the provider or otherwise ordered by a court for a conviction of a violation of K.S.A. 8-1567, and amendments thereto, the division shall suspend the person's driving privileges until the division receives notice of the person's completion of such recommendation.

(e) Except as provided in K.S.A. 8-2,142, and amendments thereto, if a person's driving privileges are subject to suspension pursuant to this section for a test refusal, test failure or alcohol or drug-related conviction arising from the same arrest, the period of such suspension shall not exceed the longest applicable period authorized by subsection (a) or (b), and such suspension periods shall not be added together or otherwise imposed consecutively. In addition, in determining the period of such suspension as authorized by subsection (a) or (b), such person shall receive credit for any period of time for which such person's driving privileges were suspended while awaiting any hearing or final order authorized by this act.

If a person's driving privileges are subject to restriction pursuant to this section for a test failure or alcohol or drug-related conviction arising from the same arrest, the restriction periods shall not be added together or otherwise imposed consecutively. In addition, in determining the period of restriction, the person shall receive credit for any period of suspension imposed for a test refusal arising from the same arrest.

(f) If the division has taken action under subsection (a) for a test refusal or under subsection (b) for a test failure and such action is stayed pursuant to K.S.A. 8-259, and amendments thereto, or if temporary driving privileges are issued pursuant to K.S.A. 8-1020, and amendments thereto, the stay or temporary driving privileges shall not prevent the division from taking the action required by

subsection (b) for an alcohol or drug-related conviction.

(g) The provisions of subsections (a), (b) and (c), as amended by ~~this act~~ section 16 of chapter 172 of the 2012 Session Laws of Kansas and section 14 of chapter 105 of the 2011 Session Laws of Kansas, may be applied retroactively only if requested by a person who has had such person's driving privileges suspended or restricted pursuant to subsection (a), (b) or (c) prior to such amendment. Such person may apply to the division to have the penalties applied retroactively, as provided under K.S.A. 8-1015(g), and amendments thereto.

(h) When modifying penalties pursuant to subsection (g), the division shall credit any suspension or revocation time in excess of one year which was imposed and served prior to retroactive application of the provisions of subsections (a), (b) and (c), as amended by ~~this act~~ section 16 of chapter 172 of the 2012 Session Laws of Kansas and section 14 of chapter 105 of the 2011 Session Laws of Kansas, toward the required ignition interlock restriction period imposed pursuant to the retroactive application of such provisions if: (1) The person's driving record indicates no driving by the person during the applicable suspension or revocation period; and (2) the person completes a form prescribed by the division indicating that the person did not drive during the applicable suspension or revocation period.

(i) As used in this section, "suspension" includes any period of suspension and any period of restriction as provided in K.S.A. 8-1015(a), and amendments thereto.

Sec. 4. K.S.A. 2018 Supp. 8-1015 is hereby amended to read as follows: 8-1015. (a) (1) Except as provided in subsection (a)(2), whenever a person's driving privileges have been suspended for one year as provided in K.S.A. 8-1014(a), and amendments thereto, after 90 days of such suspension, such person may apply to the division for such person's driving privileges to be restricted for the remainder of the one-year suspension period to driving only a motor vehicle equipped with an ignition interlock device and only for the purposes of getting to and from: Work, school or an alcohol

treatment program; and the ignition interlock provider for maintenance and downloading of data from the device.

(2) Whenever a person's driving privileges have been suspended for one year as provided in K.S.A. 8-1014(a)(1), and amendments thereto, after 90 days of such suspension, such person may apply to the division for such person's driving privileges to be restricted for the remainder of the one-year suspension period to driving only a motor vehicle equipped with an ignition interlock device and only: Under the circumstances provided by K.S.A. 8-292(a)(1), (2), (3) and (4), and amendments thereto; and for the purpose of getting to and from the ignition interlock provider for maintenance and downloading of data from the device.

(3) Except as provided in subsection (a)(4), whenever a person's driving privileges have been suspended for one year as provided in K.S.A. 8-1014(b), and amendments thereto, after 45 days of such suspension, such person may apply to the division for such person's driving privileges to be restricted for the remainder of the one-year suspension period to driving only a motor vehicle equipped with an ignition interlock device and only for the purposes of getting to and from: Work, school or an alcohol treatment program; and the ignition interlock provider for maintenance and downloading of data from the device.

(4) Whenever a person's driving privileges have been suspended for one year as provided in K.S.A. 8-1014(b)(2)(A), and amendments thereto, after 45 days of such suspension, such person may apply to the division for such person's driving privileges to be restricted for the remainder of the one-year suspension period to driving only a motor vehicle equipped with an ignition interlock device and only: Under the circumstances provided by K.S.A. 8-292(a)(1), (2), (3) and (4), and amendments thereto; and for the purpose of getting to and from the ignition interlock provider for maintenance and downloading of data from the device.

(5) The division shall assess an application fee of \$100 for a person to apply to modify the

suspension to restricted ignition interlock status.

(6) The division shall approve the request for such restricted license unless such person's driving privileges have been restricted, suspended, revoked or disqualified pursuant to another action by the division or a court. If the request is approved, upon receipt of proof of the installation of such device, the division shall issue a copy of the order imposing such restrictions on the person's driving privileges and such order shall be carried by the person at any time the person is operating a motor vehicle on the highways of this state. Except as provided in K.S.A. 8-1017, and amendments thereto, if such person is convicted of a violation of the restrictions, such person's driving privileges shall be suspended for an additional year, in addition to any term of suspension or restriction as provided in K.S.A. 8-1014(a) or (b), and amendments thereto.

(b) (1) Except as provided in subsection (b)(2), when a person has completed the suspension pursuant to K.S.A. 8-1014(b)(1)(A), and amendments thereto, the division shall either: (A) Continue such suspension for 180 days and, upon completion of such suspension, reinstate the person's driving privileges, unless the person's driving privileges have been restricted, suspended, revoked or disqualified pursuant to another action by the division or a court; or (B) if the person applies to the division, restrict the person's driving privileges for 180 days to driving only a motor vehicle equipped with an ignition interlock device.

(2) When a person has completed the suspension pursuant to K.S.A. 8-1014(b)(1)(A), and amendments thereto, the division shall restrict the person's driving privileges for one year to driving only a motor vehicle equipped with an ignition interlock device if the records maintained by the division indicate that such person has previously: (A) Been convicted of a violation of K.S.A. 8-1599, and amendments thereto; (B) been convicted of a violation of K.S.A. 41-727, and amendments thereto; (C) been convicted of any violations listed in K.S.A. 8-285(a), and amendments thereto; (D) been convicted of three or more moving traffic violations committed on separate occasions within a 12-

month period; or (E) had such person's driving privileges revoked, suspended, canceled or withdrawn.

(c) Except as provided in subsection (b), when a person has completed the suspension pursuant to K.S.A. 8-1014(a) or (b), and amendments thereto, the division shall restrict the person's driving privileges pursuant to K.S.A. 8-1014(a) or (b), and amendments thereto, to driving only a motor vehicle equipped with an ignition interlock device. Upon restricting a person's driving privileges pursuant to this subsection, the division shall issue a copy of the order imposing the restrictions which is required to be carried by the person at any time the person is operating a motor vehicle on the highways of this state.

(d) Whenever an ignition interlock device is required by law, such ignition interlock device shall be approved by the division and maintained at the person's expense. Proof of the installation of such ignition interlock device, for the entire period required by the applicable law, shall be provided to the division before the person's driving privileges are fully reinstated. Every person who has an ignition interlock device installed as required by law shall be required to complete the ignition interlock device program pursuant to rules and regulations adopted by the secretary of revenue and proof of completion shall be provided to the division by the approved service provider before the person's driving privileges are fully reinstated.

(e) Except as provided further, any person whose license is restricted to operating only a motor vehicle with an ignition interlock device installed may operate an employer's vehicle without an ignition interlock device installed during normal business activities, provided that the person does not partly or entirely own or control the employer's vehicle or business. The provisions of this subsection shall not apply to any person whose driving privileges have been restricted for the remainder of the one-year suspension period as provided in subsection (a)(1) or (a)(3).

(f) Upon expiration of the period of time for which restrictions are imposed pursuant to this section, the licensee may apply to the division for the return of any license previously surrendered by

the licensee. If the license has expired, the person may apply to the division for a new license, which shall be issued by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless the person's driving privileges have been suspended or revoked prior to expiration.

(g) Any person who has had the person's driving privileges suspended, restricted or revoked pursuant to K.S.A. 8-1014(a), (b) or (c), prior to the amendments by section 16 of chapter 172 of the 2012 Session Laws of Kansas and section 14 of chapter 105 of the 2011 Session Laws of Kansas, may apply to the division to have the suspension, restriction or revocation penalties modified in conformity with the provisions of K.S.A. 8-1014(a), (b) or (c), and amendments thereto. The division shall assess an application fee of \$100 for a person to apply to modify the suspension, restriction or revocation penalties previously issued. The division shall modify the suspension, restriction or revocation penalties, unless such person's driving privileges have been restricted, suspended, revoked or disqualified pursuant to another action by the division or a court.

(h) The division shall remit all application fees collected pursuant to subsections (a) and (g) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit such moneys to the division of vehicles operating fund until an aggregate amount of \$100,000 is credited to the division of vehicles operating fund each fiscal year. On and after an aggregate amount of \$100,000 is credited to such fund each fiscal year, the entire amount of such remittance shall be credited to the community corrections supervision fund created by K.S.A. 2018 Supp. 75-52,113, and amendments thereto. The application fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for such application. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.";

On page 16, in line 20, after the first comma by inserting "8-1014, 8-1015,";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after the second semicolon by inserting "suspension or restriction of driving privileges;"; in line 3, after the comma by inserting "8-1014, 8-1015,"

Senator _____