

As Amended by House Committee

Session of 2021

HOUSE BILL No. 2193

By Committee on Corrections and Juvenile Justice

2-1

1 AN ACT concerning motor vehicles; relating to driving privileges;
2 revocation, suspension or restrictions thereof; fines and application
3 fees; **permitting certain individuals to enter into payment**
4 **agreements with courts for fines for traffic citations; requiring**
5 **certain information to appear on traffic citations;** amending K.S.A.
6 2020 Supp. 8-262, **8-2106** and 8-2110 and repealing the existing
7 sections; also repealing K.S.A. 2020 Supp. 8-2110b.
8

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

10 **New Section 1. (a) (1) Any person who is financially unable to pay**
11 **either the full amount of their original traffic fine or fines and court**
12 **costs or a monthly payment from an approved hardship payment**
13 **plan, as described in this section, may contact the court of jurisdiction**
14 **to request a hardship waiver to offset part or all of the balance owed.**
15 **The waiver shall include options for monthly installment payments**
16 **and credits, or both, earned by the defendant doing community**
17 **service and attending court approved classes, or both.**

18 **(2) A monthly payment amount shall be calculated based upon all**
19 **fines and fees and all anticipated costs owed within that jurisdiction**
20 **and shall correspond to the person's ability to pay. The monthly**
21 **payment plan amount shall be the greater of \$10 or 2% of the person's**
22 **annual net income, as of their most recent tax return, divided by 12.**

23 **(b) A single page, uniform hardship waiver application form shall**
24 **be made available to download from the department of revenue**
25 **website in addition to being provided in each jurisdiction's clerk of**
26 **court office for defendants to sign and submit to the court. If the court**
27 **denies an economic hardship petition, a written explanation shall be**
28 **provided to the defendant stating the reason or reasons for the denial.**

29 **(c) Under the terms of the original traffic fine or fines and court**
30 **costs payment agreement made with the court, the municipal or**
31 **judicial district court:**

32 **(1) Shall order the recall of any warrants directly related to the**
33 **suspension of the person's driver's license;**

34 **(2) shall order the waiver of any reinstatement and collection fees**
35 **directly related to the suspension;**

36 **(3) shall order the expungement of any previous driving while**

1 suspended convictions due to nonpayment of traffic fines and court
2 costs, or both, or failure to appear; and

3 (4) may order that a defendant who enters into a payment
4 agreement shall receive credit against remaining traffic fines and
5 court costs owed by performing community service and attending
6 classes, or both, including online courses, aimed at defensive and safe
7 driving techniques or a state approved traffic school program. The
8 court shall approve any classes and community service. Once such
9 classes or community service has been approved, the person shall
10 receive a credit toward the balance owed in an amount equal to \$15
11 for each hour spent by the person doing community service and \$15
12 for each hour spent attending classes.

13 (d) After a hardship payment plan has been approved by the
14 court, the court shall order the division of vehicles to reinstate the
15 driver's driving privileges without restriction. After a person has their
16 driving privileges reinstated by agreeing to an approved hardship
17 payment plan, that person's driver's license shall not be suspended
18 due to nonpayment until they have failed to pay for 90 consecutive
19 days.

20 (e) Any violation of law by the person holding a restricted license
21 that would result in the suspension or revocation of a driver's license
22 shall result in the revocation of the restricted license.

23 (f) As soon as the original traffic fine or fines and court costs have
24 been paid as agreed by the defendant, the district or municipal court
25 shall electronically order the division of vehicles to immediately
26 remove the restrictions on the defendant's driver's license and mail
27 written notification to the defendant that their Kansas driver's
28 privileges and license have been reinstated.

29 (g) The provisions of this section shall not apply to:

30 (1) Non-traffic warrants; or

31 (2) a person whose driver's license has been suspended or
32 revoked under the provisions of K.S.A. 8-2,144, 8-1567 or 8-1567a, and
33 amendments thereto, or K.S.A. 2020 Supp. 8-1025, and amendments
34 thereto.

35 ~~Section 1.~~ **Sec. 2.** K.S.A. 2020 Supp. 8-262 is hereby amended to
36 read as follows: 8-262. (a) (1) Any person who drives a motor vehicle on
37 any highway of this state at a time when such person's privilege so to do is
38 canceled, suspended or revoked or while such person's privilege to obtain
39 a driver's license is suspended or revoked pursuant to K.S.A. 8-252a, and
40 amendments thereto, shall be guilty of a class B nonperson misdemeanor
41 on the first conviction and a class A nonperson misdemeanor on the second
42 or subsequent conviction.

43 (2) No person shall be convicted under this section if such person was

1 entitled at the time of arrest under K.S.A. 8-257, and amendments thereto,
2 to the return of such person's driver's license.

3 (3) Except as otherwise provided by subsection (a)(4) or (c), every
4 person convicted under this section shall be sentenced to at least five days'
5 imprisonment and fined at least \$100 and upon a second conviction shall
6 not be eligible for parole until completion of five days' imprisonment.

7 (4) Except as otherwise provided by subsection (c), if a person:

8 (A) Is convicted of a violation of this section, committed while the
9 person's privilege to drive or privilege to obtain a driver's license was
10 suspended or revoked for a violation of K.S.A. 8-2,144 or 8-1567, and
11 amendments thereto, or any ordinance of any city or resolution of any
12 county or a law of another state, which ordinance or resolution or law
13 prohibits the acts prohibited by those statutes; and

14 (B) is or has been also convicted of a violation of K.S.A. 8-2,144 or
15 8-1567, and amendments thereto, or any ordinance of any city or
16 resolution of any county or law of another state, which ordinance or
17 resolution or law prohibits the acts prohibited by those statutes, committed
18 while the person's privilege to drive or privilege to obtain a driver's license
19 was so suspended or revoked, the person shall not be eligible for
20 suspension of sentence, probation or parole until the person has served at
21 least 90 days' imprisonment, and any fine imposed on such person shall be
22 in addition to such a term of imprisonment.

23 (b) (1) *Except as provided by paragraph (2), the division, upon*
24 *receiving a record of the conviction of any person under this section, or*
25 *any ordinance of any city or resolution of any county or a law of another*
26 *state which is in substantial conformity with this section, upon a charge of*
27 *driving a vehicle while the license of such person is revoked or suspended,*
28 *shall extend the period of such suspension or revocation for an additional*
29 *period of ~~90-30~~ 90 days.*

30 (2) *For any person found guilty of driving a vehicle while the license*
31 *of such person is suspended for violating K.S.A. 8-2110, and amendments*
32 *thereto, the suspension or revocation shall not be extended for any*
33 *additional time pursuant to paragraph (1).*

34 (c) (1) The person found guilty of a class A nonperson misdemeanor
35 on a third or subsequent conviction of this section shall be sentenced to not
36 less than 90 days' imprisonment and fined not less than \$1,500 if such
37 person's privilege to drive a motor vehicle is canceled, suspended or
38 revoked because such person:

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

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

1 (C) was convicted of vehicular homicide, K.S.A. 21-3405, prior to its
2 repeal, or K.S.A. 2020 Supp. 21-5406, and amendments thereto,
3 involuntary manslaughter while driving under the influence of alcohol or
4 drugs, K.S.A. 21-3442, prior to its repeal, or involuntary manslaughter as
5 defined in K.S.A. 2020 Supp. 21-5405(a)(3) and (a)(5), and amendments
6 thereto, or any other murder or manslaughter crime resulting from the
7 operation of a motor vehicle; or

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

10 (2) The person convicted shall not be eligible for release on
11 probation, suspension or reduction of sentence or parole until the person
12 has served at least 90 days' imprisonment. The 90 days' imprisonment
13 mandated by this subsection may be served in a work release program only
14 after such person has served 48 consecutive hours' imprisonment, provided
15 such work release program requires such person to return to confinement
16 at the end of each day in the work release program. The court may place
17 the person convicted under a house arrest program pursuant to K.S.A.
18 2020 Supp. 21-6609, and amendments thereto, or any municipal ordinance
19 to serve the remainder of the minimum sentence only after such person has
20 served 48 consecutive hours' imprisonment.

21 (d) For the purposes of determining whether a conviction is a first,
22 second, third or subsequent conviction in sentencing under this section,
23 "conviction" includes a conviction of a violation of any ordinance of any
24 city or resolution of any county or a law of another state which is in
25 substantial conformity with this section.

26 **Sec. 3. K.S.A. 2020 Supp. 8-2106 is hereby amended to read as**
27 **follows: 8-2106. (a) A law enforcement officer may prepare and deliver**
28 **to a person a written traffic citation on a form approved by the**
29 **division of motor vehicles, if the law enforcement officer stops the**
30 **person for a violation of:**

31 **(1) The uniform act regulating traffic on highways, which**
32 **violation is a misdemeanor or a traffic infraction;**

33 **(2) K.S.A. 8-262, 8-287, 8-2,144, 8-1599, 40-3104, 40-3106, 41-715,**
34 **41-724, 41-727, 47-607, 66-1,111, 66-1,129, 66-1,139, 66-1,140, 66-273,**
35 **66-1314, 66-1324, 66-1330, 66-1331, 66-1332, 68-2104, 68-2106 or**
36 **subsection (b) of K.S.A. 79-34,122(b), or K.S.A. 2020 Supp. subsection**
37 **(a) of 21-5607(a), 21-5810, 21-5815, 21-5816, subsection (a) of 21-**
38 **5817(a) or 21-6203, and amendments thereto;**

39 **(3) K.S.A. 31-155, and amendments thereto, involving**
40 **transportation of bottle rockets;**

41 **(4) K.S.A. 66-1314 or 66-1328, and amendments thereto, and any**
42 **rules and regulations adopted pursuant thereto;**

43 **(5) any rules and regulations adopted pursuant to K.S.A. 2-1212,**

1 ~~68-2001 or 31-146 or 68-2001~~, and amendments thereto;

2 (6) any rules and regulations adopted pursuant to K.S.A. 31-133,
3 and amendments, thereto relating to transportation of materials or
4 fuel; or

5 (7) K.S.A. 8-1343 through 8-1347, and amendments thereto,
6 relating to the child passenger safety act; or

7 (8) K.S.A. 8-2501 through 8-2507, and amendments thereto,
8 relating to the safety belt use act.

9 (b) The citation shall contain a notice to appear in court, the
10 name and address of the person, the type of vehicle the person was
11 driving, whether hazardous materials were being transported,
12 whether an accident occurred, the state registration number of the
13 person's vehicle, if any, a statement whether the vehicle is a
14 commercial vehicle, whether the person is licensed to drive a
15 commercial motor vehicle, the offense or offenses charged, the time
16 and place when and where the person shall appear in court, *the phone*
17 *number and email address of the clerk of the court of jurisdiction*, the
18 signature of the law enforcement officer, and any other pertinent
19 information.

20 (c) The time specified in the notice to appear shall be at least five
21 days after the alleged violation unless the person charged with the
22 violation demands an earlier hearing.

23 (d) The place specified in the notice to appear shall be before a
24 judge of the district *or municipal* court within the county in which the
25 offense is alleged to have been committed.

26 (e) Except in the circumstances ~~to which subsection (a) of where~~
27 ~~K.S.A. 8-2104(a)~~, and amendments thereto, apply, in the discretion of
28 the law enforcement officer, a person charged with a misdemeanor
29 may give written promise to *either appear in court or be given the*
30 *phone number or email address of the clerk of the court to enter a plea*
31 *prior to the court date by signing at least one copy of the written*
32 *citation prepared by the law enforcement officer, in which event the*
33 *law enforcement officer shall deliver a copy of the citation to the*
34 *person and shall not take the person into physical custody.*

35 (f) When a person is charged with a traffic infraction, the notice
36 to appear shall provide a place where the person may make a written
37 entry of appearance, waive the right to a trial and plead guilty or no
38 contest. Such notice to appear shall contain a provision that the
39 person's failure to *either enter a plea with the clerk of the court prior to*
40 *a specified time and, if pleading guilty, make payments as agreed to with*
41 *the court, pay such fine and court costs or appear in court at the*
42 *specified time may result in suspension of the person's drivers' license*
43 *as provided in K.S.A. 8-2110, and amendments thereto. The notice to*

1 **appear shall provide a space where the law enforcement officer shall**
2 **enter the appropriate fine specified in the uniform fine schedule**
3 **contained in K.S.A. 8-2118, and amendments thereto, for the violation**
4 **charged and court costs in the amount provided by law. If the notice to**
5 **appear does not ~~do so~~ provide the information set forth in this subsection,**
6 **the law enforcement officer shall provide a person charged with a**
7 **traffic infraction a form explaining the person's right to *contact the***
8 ***clerk of the district or municipal court of jurisdiction to enter a plea prior***
9 ***to the date to appear and right to a trial and the person's right to***
10 ***negotiate with the court a plan to pay the fine or fines stated on the traffic***
11 ***citation and court costs or pay the appropriate fine and court costs***
12 **prior to the appearance date. The law enforcement officer shall**
13 **provide the person with the *phone number and email address of the clerk***
14 ***of the court and the address of the court to which the written entry of***
15 **appearance, waiver of trial, plea of guilty or no contest and payment**
16 **of fine and court costs shall be mailed.**

17 **(g) Any officer violating any of the provisions of subsection (f) is**
18 **guilty of misconduct in office and shall be subject to removal from**
19 **office.**

20 ~~Sec. 2:~~ 4. K.S.A. 2020 Supp. 8-2110 is hereby amended to read as
21 follows: 8-2110. (a) Failure to comply with a traffic citation means failure
22 either to: (1) appear before any district or municipal court in response to a
23 traffic citation **and or enter a plea with the clerk of the court prior to**
24 **their assigned court date and, if pleading guilty, pay in full any fine and**
25 **court costs imposed; or (2) otherwise comply with a traffic citation as**
26 **provided in K.S.A. 8-2118, and amendments thereto in accordance with**
27 **the amount and payment plan agreed upon by the court.** Failure to
28 comply with a traffic citation is a misdemeanor, regardless of the
29 disposition of the charge for which such citation was originally issued.

30 (b) (1) In addition to penalties of law applicable under subsection (a),
31 when a person fails to comply with a traffic citation, except for illegal
32 parking, standing or stopping, the district or municipal court in which the
33 person should have complied with the citation shall mail notice to the
34 person that if the person does not appear in district or municipal court or
35 ~~pay all fines, court costs and any penalties~~ **enter a plea with the court**
36 **within 30 days from the date of mailing notice, the division of vehicles**
37 **will be notified to suspend the person's driving privileges. The district or**
38 **municipal court may charge an additional fee of \$5 for mailing such**
39 **notice. Upon the person's failure to comply within such 30 days of mailing**
40 **notice, the district or municipal court shall electronically notify the**
41 **division of vehicles. Upon receipt of a report of a failure to comply with a**
42 **traffic citation under this subsection, ~~pursuant to K.S.A. 8-255, and~~**
43 **~~amendments thereto,~~ the division of vehicles shall notify the violator and**

1 suspend the license of the violator until satisfactory evidence of
2 compliance with the terms of the traffic citation has been furnished to the
3 informing court. When the court determines the person has complied with
4 the terms of the traffic citation, the court shall immediately electronically
5 notify the division of vehicles of such compliance. Upon receipt of
6 notification of such compliance from the informing court, the division of
7 vehicles shall terminate the suspension or suspension action.

8 (2) (A) In lieu of suspension under paragraph (1), the driver may
9 submit to the division of vehicles a written request for restricted driving
10 privileges, with a non-refundable \$25 application fee, to be applied by the
11 division of vehicles for additional administrative costs to implement
12 restricted driving privileges. The division shall remit all restricted driving
13 privilege application fees to the state treasurer in accordance with the
14 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
15 each such remittance, the state treasurer shall deposit the entire amount in
16 the state treasury to the credit of the division of vehicles operating fund.
17 *No application fee shall be collected in connection with such written*
18 *request.*

19 (B) A person whose driver's license has expired during the period
20 when such person's driver's license has been suspended for failure to pay
21 fines for traffic citations **or failure to appear in court or contact the**
22 **court to enter a plea prior to their court date**, the driver may submit to
23 the division of vehicles a written request for restricted driving privileges;
24 with a non-refundable \$25 application fee, to be applied by the division of
25 vehicles for additional administrative costs to implement restricted driving
26 privileges. The division shall remit all restricted driving privilege
27 application fees to the state treasurer in accordance with the provisions of
28 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
29 remittance, the state treasurer shall deposit the entire amount in the state
30 treasury to the credit of the division of vehicles operating fund. An
31 individual shall not qualify for restricted driving privileges pursuant to this
32 section unless the following conditions are met: (i) The suspended license
33 that expired was issued by the division of vehicles; (ii) the suspended
34 license resulted from the individual's failure to comply with a traffic
35 citation pursuant to subsection (b)(1); (iii) the traffic citation that resulted
36 in the failure to comply pursuant to subsection (b)(1) was issued in this
37 state; and (iv) the individual has not previously received a stayed
38 suspension as a result of a driving while suspended conviction. *No*
39 *application fee shall be collected in connection with such written request.*

40 (C) **An individual shall not qualify for restricted driving**
41 **privileges pursuant to subsection (b)(2)(A) or (b)(2)(B) unless the**
42 **following conditions are met: (i) The suspended license was issued by**
43 **the division of vehicles; (ii) the suspended license resulted from the**

1 individual's failure to comply with a traffic citation pursuant to
2 subsection (b)(1) and there is no other basis for the license suspension
3 or cancellation except for violations of this section; and (iii) the traffic
4 citation that resulted in the failure to comply pursuant to subsection
5 (b)(1) was issued in this state.

6 (D) Upon review and approval of the driver's eligibility, the driving
7 privileges will be restricted by the division of vehicles for a period up to
8 one year or until the terms of the traffic citation have been complied with
9 and the court shall immediately electronically notify the division of
10 vehicles of such compliance. If the driver fails to comply with the traffic
11 citation within the one year restricted period, the driving privileges will be
12 suspended by the division of vehicles until the court determines the person
13 has complied with the terms of the traffic citation and the court shall
14 immediately electronically notify the division of vehicles of such
15 compliance. Upon receipt of notification of such compliance from the
16 informing court, the division of vehicles shall terminate the suspension
17 action. When restricted driving privileges are approved pursuant to this
18 section, the person's driving privileges shall be restricted to driving only
19 under the following circumstances: (i) In going to or returning from the
20 person's place of employment or schooling; (ii) in the course of the
21 person's employment; (iii) in going to or returning from an appointment
22 with a health care provider or during a medical emergency; and (iv) in
23 going to and returning from probation or parole meetings, drug or alcohol
24 counseling or any place the person is required to go by a court.

25 (c) (1) ~~Prior to July 1, 2018, except as provided in subsection (d),~~
26 ~~when the district or municipal court notifies the division of vehicles of a~~
27 ~~failure to comply with a traffic citation pursuant to subsection (b), the~~
28 ~~court shall assess a reinstatement fee of \$59 for each charge on which the~~
29 ~~person failed to make satisfaction regardless of the disposition of the~~
30 ~~charge for which such citation was originally issued and regardless of any~~
31 ~~application for restricted driving privileges. Such reinstatement fee shall~~
32 ~~be in addition to any fine, restricted driving privilege application fee,~~
33 ~~district or municipal court costs and other penalties. The court shall remit~~
34 ~~all reinstatement fees to the state treasurer in accordance with the~~
35 ~~provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of~~
36 ~~each such remittance, the state treasurer shall deposit the entire amount in~~
37 ~~the state treasury and shall credit 42.37% of such moneys to the division of~~
38 ~~vehicles operating fund, 31.78% to the community alcoholism and~~
39 ~~intoxication programs fund created by K.S.A. 41-1126, and amendments~~
40 ~~thereto, 10.59% to the juvenile alternatives to detention fund created by~~
41 ~~K.S.A. 79-4803, and amendments thereto, and 15.26% to the judicial~~
42 ~~branch nonjudicial salary adjustment fund created by K.S.A. 2020 Supp.~~
43 ~~20-1a15, and amendments thereto.~~

1 (2) ~~On and after July 1, 2018,~~ **On and after July 1, 2021**, except as
2 provided in subsection (d), when the district or municipal court notifies the
3 division of vehicles of a failure to comply with a traffic citation pursuant
4 to subsection (b), the court shall assess a reinstatement fee of \$100 ~~for~~
5 ~~each charge on which the person failed to make satisfaction regardless of~~
6 ~~the disposition of the charge for which such citation was originally issued~~
7 ~~and regardless of any application for restricted driving privileges for each~~
8 ~~case.~~ Such reinstatement fee shall be in addition to any fine, ~~restricted~~
9 ~~driving privilege application fee,~~ district or municipal court costs and other
10 penalties *and shall only be collected after a person has been determined to*
11 *be eligible for reinstatement.* The court shall remit all reinstatement fees to
12 the state treasurer in accordance with the provisions of K.S.A. 75-4215,
13 and amendments thereto. Upon receipt of each such remittance, the state
14 treasurer shall deposit the entire amount in the state treasury and shall
15 credit the first \$15 of such reinstatement fee to the judicial branch
16 nonjudicial salary adjustment fund and of the remaining amount, 29.41%
17 of such moneys to the division of vehicles operating fund, 22.06% to the
18 community alcoholism and intoxication programs fund created by K.S.A.
19 41-1126, and amendments thereto, 7.36% to the juvenile alternatives to
20 detention fund created by K.S.A. 79-4803, and amendments thereto, and
21 41.17% to the judicial branch nonjudicial salary adjustment fund created
22 by K.S.A. 2020 Supp. 20-1a15, and amendments thereto.

23 (d) The district court or municipal court shall waive the reinstatement
24 fee provided for in subsection (c), if the failure to comply with a traffic
25 citation was the result of such person enlisting in or being drafted into the
26 armed services of the United States, being called into service as a member
27 of a reserve component of the military service of the United States, or
28 volunteering for such active duty, or being called into service as a member
29 of the state of Kansas national guard, or volunteering for such active duty,
30 and being absent from Kansas because of such military service.

31 (e) A person who is assessed a reinstatement fee pursuant to
32 subsection (c) may petition the court that assessed the fee at any time to
33 waive payment of the fee, any additional charge imposed pursuant to
34 subsection (f), or any portion thereof. If it appears to the satisfaction of the
35 court that payment of the amount due will impose manifest hardship on the
36 person or the person's immediate family, the court may waive payment of
37 all or part of the amount due or modify the method of payment.

38 (f) Except as provided further, the reinstatement fee established in
39 this section shall be the only fee collected or moneys in the nature of a fee
40 collected for such reinstatement. Such fee shall only be established by an
41 act of the legislature and no other authority is established by law or
42 otherwise to collect a fee. ~~On and after July 1, 2017, through June 30,~~
43 ~~2019~~ *On and after July 1, 2019, through June 30, 2025*, the supreme court

1 may impose an additional charge, not to exceed \$22 per reinstatement fee,
2 to fund the costs of non-judicial personnel.

3 ~~Sec. 3.~~ **5.** K.S.A. 2020 Supp. 8-262, **8-2106**, 8-2110 and 8-2110b are
4 hereby repealed.

5 ~~Sec. 4.~~ **6.** This act shall take effect and be in force from and after its
6 publication in the statute book.