

**SECOND CONFERENCE COMMITTEE REPORT BRIEF  
SENATE BILL NO. 142**

As Agreed to April 4, 2024

**Brief\***

SB 142 would require drivers approaching any stopped vehicles displaying hazard warnings to proceed with due caution and to move into another lane away from the stopped vehicle; would create specific penalties for failure to move over for an emergency vehicle and a law enforcement officer, emergency medical service provider, or firefighter is injured or killed; and would prohibit the use of a mobile telephone while driving in certain circumstances. These changes would be included in the Uniform Act Regulating Traffic on Highways.

***Extending Move-over Law to Any Stopped Vehicle Displaying Warning Signals***

The bill would require the driver of a vehicle approaching a stopped vehicle displaying hazard warning signal lamps, road flares, or caution signals to proceed with caution and change lanes away from the stopped vehicle if it is possible and safe to do so (move-over law).

The bill would add a fine of \$75 for the unlawful passing of a stationary vehicle to the uniform fine schedule for traffic infractions.

***Penalties for Causing Bodily Harm or Death by Failing to Move Over for a Stopped Emergency Vehicle***

The bill would add penalties for violation of the move-over law if the stationary emergency vehicle is a fire department vehicle, police bicycle, police vehicle, or an ambulance:

- If violation of the move-over law results in injury or great bodily harm to any person serving as a law enforcement officer, emergency medical service provider, or firefighter, the violation would be a severity level 6 person felony, and the bill would require the court to impose a fine of no less than \$1,000; or
- If violation of the move-over law results in death to any person serving as a law enforcement officer, emergency medical service provider, or firefighter, the violation would be a severity level 5 person felony, and the bill would require the court to impose a fine of no less than \$7,500.

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\*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kIRD>

## ***Prohibiting Mobile Phone Use in Certain Circumstances and for Drivers Younger Than 18***

The bill would prohibit the use of a mobile telephone while driving by drivers under the age of 18 and for all drivers while driving in construction zones with workers present or in school zones during hours of reduced speed enforcement.

The bill would add a \$60 fine for violation of these provisions to the uniform fine schedule for traffic infraction violations.

The prohibition would not apply in the following circumstances:

- Activities within the scope of employment of law enforcement or emergency service personnel;
- When the vehicle is safely and lawfully stopped;
- When using a mobile telephone with a hands-free device, as defined by the bill; or
- When using a mobile telephone to do any of the following:
  - Report illegal activity to law enforcement;
  - Prevent imminent injury to a person or property;
  - Summon medical or emergency assistance; or
  - Relay information to dispatch by a transit or for-hire operator, if the device is permanently affixed to the vehicle.

The bill would exclude the following from the definition of “mobile telephone”:

- Commercial two-way radios or their equivalents;
- Subscription-based emergency communications devices;
- Prescribed medical devices;
- Amateur or ham radio devices; and
- Remote diagnostics systems.

The bill would require law enforcement officers to issue a warning citation for violations of unlawful use of a mobile telephone occurring prior to July 1, 2025.

[*Note:* Continuing law prohibits use of a wireless communication device while driving for any holder of a farm permit (KSA 8-296) or a restricted license (KSA 8-2,101) and, for all drivers, text messaging while driving (KSA 8-15,111), with exceptions generally similar to those in this bill.]

### **Conference Committee Action**

The second Conference Committee agreed to the contents of SB 142, as passed by the House, regarding extending move-over law to more stopped vehicles, which include the contents of HB 2499 regarding mobile phone use, and to add the contents of SB 426 regarding the move-over law for emergency vehicles with the following amendments:

- Remove a proposed increase in the fine for violation of the move-over law if no injury or death to a law enforcement officer, emergency medical service provider, or firefighter occurs;
- Change the severity level of the crime if the move-over law is violated and death of a law enforcement officer, emergency medical service provider, or firefighter occurs from a severity level 4 person felony to a severity level 5 person felony; and
- Remove provisions providing conforming changes for an increase in the basic fine for violation of the move-over law.

The second Conference Committee also agreed to remove a provision stating that holding a mobile telephone when not permitted under the bill would constitute *prima facie* evidence of a violation.

## **Background**

As recommended by the Conference Committee, the Conference Committee report would include the contents of SB 142, SB 426, and HB 2499.

### ***SB 142 (Extending Move-over Law to Any Stopped Vehicle)***

#### *Senate Committee on Transportation*

In the Senate Committee hearing, representatives from AAA Kansas, Kansas Department of Transportation (KDOT), and Kansas Highway Patrol (KHP) provided **proponent** testimony. The proponents stated the bill would require approaching motorists to move over for all stopped vehicles, as required in current law for stopped emergency, waste collection, and utility or telecommunications vehicles. This would add to the safety of motorists stopped on the side of the highway. Written-only proponent testimony was provided by representatives of Safe Kids Kansas and the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association. No other testimony was provided.

#### *House Committee on Transportation*

In the House Committee hearing, **proponent** testimony was provided by representatives of AAA Kansas, KDOT, and KHP. The proponents provided statistics and examples of how proceeding with caution around all stopped vehicles would increase safety on the highway. Written-only proponent testimony was provided by representatives of Safe Kids Kansas and the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association. No other testimony was provided.

The House Committee amended the bill to add the contents of HB 2499, regarding use of a mobile telephone while driving. [Note: The second Conference Committee retained this amendment.]

***SB 426 (Penalties for Causing Bodily Harm or Death by Failing to Move Over for a Stopped Emergency Vehicle)***

The bill was introduced by the Senate Committee on Transportation at the request of Senator Kloos.

*Senate Committee on Transportation*

In the Senate Committee hearing, a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association provided **proponent** testimony, stating working along the highway is one of the most common ways by which an emergency responder is injured or killed, and such crashes are completely preventable. Written-only proponent testimony was provided by a representative of the League of Kansas Municipalities. No other testimony was provided.

The Senate Committee amended the bill to replace two duplicate references to “law enforcement officer” with “firefighter.” [Note: The second Conference Committee retained these amendments.]

***HB 2499 (Prohibiting Certain Driver Use of a Mobile Telephone)***

The bill was introduced by the House Committee on Transportation at the request of a representative of AAA Kansas.

*House Committee on Transportation*

In the House Committee hearing, **proponent** testimony was provided by representatives of AAA Kansas, Kansas Contractors Association (KCA), KHP, and StopDistractions.org. The proponents generally stated the bill would make Kansas roads safer by reducing crashes, deaths, and injuries caused by inattentive driving. Written-only proponent testimony was provided by representatives of DCCCA; General Motors; Heart of America Chapter of the American Traffic Safety Services Association (HOA-ATSSA); Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and Kansas Peace Officers Association; Safe Kids Kansas; and KDOT. No other testimony was provided.

*Senate Committee on Transportation*

In the Senate Committee hearing, **proponent** testimony was provided by one private citizen, and representatives of AAA Kansas; Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association; KCA; KDOT; and KHP. The proponents stated the provisions and penalties of the bill would provide greater safety for Kansas drivers and construction workers by reducing crashes, deaths, and injuries caused by using a mobile telephone in the circumstances provided in the bill. Written-only proponent testimony was provided by representatives of Advocates for Highway and Auto Safety, DCCCA, General Motors, HOA-ATSSA, Safe Kids Kansas, and StopDistractions.org. No other testimony was provided.

The Senate Committee amended the bill to become effective upon publication in the *Kansas Register*. [Note: This amendment is not included in SB 142, as amended by the House Committee on Transportation and is not included in the second Conference Committee report.]

## **Fiscal Information**

### ***SB 142 (Extending Move-over Law to Any Stopped Vehicle)***

According to the fiscal note prepared by the Division of the Budget on SB 142, as introduced, the Office of Judicial Administration (OJA) indicates the bill could increase the number of cases filed in district courts because it creates a new traffic violation, but an accurate estimate on the fiscal effect of the expenditures by the Judicial Branch cannot be given until the courts operate under the bill's proposed changes. The bill could result in the collection of docket fees and fines, which would be deposited into the State General Fund.

The KHP indicates the bill would have negligible fiscal effect on expenditures. The Department of Revenue indicates the bill would have no fiscal effect on the agency.

Any fiscal impact associated with enactment of SB 142 is not reflected in *The FY 2024 Governors' Budget Report*.

### ***SB 426 (Penalties for Causing Bodily Harm or Death by Failing to Move Over for a Stopped Emergency Vehicle)***

According to the fiscal note prepared by the Division of the Budget on SB 426, as introduced, the OJA indicates enactment of the bill could have a fiscal impact on Judicial Branch operations but that effect cannot be estimated until the courts have had an opportunity to operate under the bill's provisions. The bill's enactment would increase criminal penalties, so there would be less supervision performed by court service officers and a decrease in supervision fee revenues, which would have been credited to the State General Fund. OJA also states enactment could increase fine revenues, which would be credited to other funds.

KDOT notes the agency's Traffic Records Enhancement Fund receives 2.23 percent of all district court fines, penalties, and forfeitures, and the agency's Seat Belt Safety Fund receives 2.20 percent. KDOT estimates enactment of the bill could increase the fines collected, but the agency does not have enough information to estimate how many citations would be issued.

The Kansas Sentencing Commission estimates enactment of the bill could increase prison admissions and the number of beds needed, but a precise effect cannot be determined at this time. The Department of Corrections states any effect would be absorbed within existing resources. The Department of Revenue states enactment of the bill would not have a fiscal effect on agency operations.

Any fiscal effect associated with enactment of SB 426 is not reflected in *The FY 2025 Governor's Budget Report*.

The League of Kansas Municipalities states enactment of the bill would not have a fiscal effect on cities.

***HB 2499 (Prohibiting Certain Driver Use of a Mobile Telephone)***

According to the fiscal note prepared by the Division of the Budget on HB 2499, as introduced, the OJA and KDOT indicate, due to the adjudication of violations under the proposed law, the bill could increase Judicial Branch expenditures and State General Fund revenues by an indeterminate amount. The KHP indicated enactment of the bill would have no fiscal effect on the agency.

Any fiscal effect associated with enactment of HB 2499 is not reflected in *The FY 2025 Governor's Budget Report*.

The Kansas Association of Counties indicates enactment of HB 2499 would have no fiscal effect on counties unless the number of violations substantially increases fines or court costs.

Transportation; traffic safety; traffic regulation; uniform traffic fine schedule; move over; mobile telephones; traffic law enforcement; emergency vehicle; firefighter; emergency medical provider; crime; fine

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