

HOUSE BILL No. 2440

By Representatives Storm, Benlon, Dahl, Gilbert, Henderson, Kirk, Loganbill, Patterson, Showalter, Tanner, Toelkes, Tomlinson and Winn

2-7

AN ACT regulating traffic; restricting the use of cellular telephones while driving; amending K.S.A. 2000 Supp. 8-2118 and repealing the existing section.

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

New Section 1. (a) It shall be unlawful for any person to operate a motor vehicle on a public highway while using a hand held cellular or cellular car telephone.

(b) An operator of a motor vehicle shall have a two minute grace period on the receipt and transmission of cellular telephone calls to pull the motor vehicle off the road and park the motor vehicle in a safe location that will not interfere with the flow of traffic.

(c) It shall not be a violation of this section if:

(1) A passenger or occupant of a motor vehicle, other than the operator, is using a hand held cellular or cellular car telephone while the motor vehicle is in motion;

(2) the operator of a motor vehicle is alone and has reason to fear for such operator's life or safety, or believes that a criminal act may be perpetrated against the operator necessitating the use of such cellular telephone while operating the motor vehicle; or

(3) the operator is using such hand held cellular or cellular car telephone to contact a 911 system.

(d) The provisions of this section shall not prevent the use of citizen's band radios or the use of speaker phones which are voice activated and do not require the use of hands.

(e) Law enforcement officers shall not stop drivers for violations of this act in the absence of another violation of law. A citation for violation of this act shall not be issued without citing the violation that initially caused the officer to effect the enforcement stop.

(f) Evidence of an operator of a motor vehicle unlawfully using a cellular telephone shall be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.

(g) The provisions of this section shall be part of and supplemental

1 to the uniform act regulating traffic on highways.

2 Sec. 2. K.S.A. 2000 Supp. 8-2118 is hereby amended to read as fol-
 3 lows: 8-2118. (a) A person charged with a traffic infraction shall, except
 4 as provided in subsection (b), appear at the place and time specified in
 5 the notice to appear. If the person enters an appearance, waives right to
 6 trial, pleads guilty or no contest, the fine shall be no greater than that
 7 specified in the uniform fine schedule in subsection (c) and court costs
 8 shall be taxed as provided by law.

9 (b) Prior to the time specified in the notice to appear, a person
 10 charged with a traffic infraction may enter a written appearance, waive
 11 right to trial, plead guilty or no contest and pay the fine for the violation
 12 as specified in the uniform fine schedule in subsection (c) and court costs
 13 provided by law. Payment may be made by mail or in person and may be
 14 by personal check. The traffic citation shall not have been complied with
 15 if a check is not honored for any reason, or if the fine and court costs are
 16 not paid in full. When a person charged with a traffic infraction makes
 17 payment without executing a written waiver of right to trial and plea of
 18 guilty or no contest, the payment shall be deemed such an appearance,
 19 waiver of right to trial and plea of no contest.

20 (c) The following uniform fine schedule shall apply uniformly
 21 throughout the state but shall not limit the fine which may be imposed
 22 following a court appearance, except an appearance made for the purpose
 23 of pleading and payment as permitted by subsection (a). The description
 24 of offense contained in the following uniform fine schedule is for refer-
 25 ence only and is not a legal definition.

<i>Description of Offense</i>	<i>Statute</i>	<i>Fine</i>
Refusal to submit to a preliminary breath test	8-1012	\$30
Unsafe speed for prevailing conditions	8-1557	\$20
Exceeding maximum speed limit; or speeding in zone posted by the state department of transportation; or speeding in locally posted zone	8-1558 to 8-1560 8-1560a or 8-1560b	1-10 mph over the limit, \$10; 11-20 mph over the limit, \$10 plus \$2 per mph over 10 mph over the limit 21-30 mph over the limit, \$30 plus \$3 per mph over 20 mph over the limit;

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1			31 and more mph
2			over the limit,
3			\$60 plus \$5 per
4			mph over 30 mph
5			over the limit;
6	Disobeying traffic control device	8-1507	\$20
7	Violating traffic control signal	8-1508	\$20
8	Violating pedestrian control signal	8-1509	\$10
9	Violating flashing traffic signals	8-1510	\$20
10	Violating lane-control signal	8-1511	\$20
11	Unauthorized sign, signal, marking or device	8-1512	\$10
12	Driving on left side of roadway	8-1514	\$20
13	Failure to keep right to pass oncoming vehicle	8-1515	\$20
14	Improper passing: increasing speed when passed	8-1516	\$20
15	Improper passing on right	8-1517	\$20
16	Passing on left with insufficient clearance	8-1518	\$20
17	Driving on left side where curve, grade, intersection	8-1519	\$20
18	railroad crossing, or obstructed view		
19	Driving on left in no-passing zone	8-1520	\$20
20	Unlawful passing of stopped emergency vehicle	8-1520a	\$20
21	Driving wrong direction on one-way road	8-1521	\$20
22	Improper driving on laned roadway	8-1522	\$20
23	Following too close	8-1523	\$20
24	Improper crossover on divided highway	8-1524	\$10
25	Failure to yield right-of-way at uncontrolled	8-1526	\$20
26	intersection		
27	Failure to yield to approaching vehicle when turning	8-1527	\$20
28	left		
29	Failure to yield at stop or yield sign	8-1528	\$20
30	Failure to yield from private road or driveway	8-1529	\$20
31	Failure to yield to emergency vehicle	8-1530	\$30 \$60
32	Failure to yield to pedestrian or vehicle working on	8-1531	\$10
33	roadway		
34	Failure to comply with restrictions in road	8-1531a	\$10
35	construction zone		
36	Disobeying pedestrian traffic control device	8-1532	\$10
37	Failure to yield to pedestrian in crosswalk; pedestrian	8-1533	\$20
38	suddenly entering roadway; passing vehicle		
39	stopped for pedestrian at crosswalk		
40	Improper pedestrian crossing	8-1534	\$10
41	Failure to exercise due care in regard to pedestrian	8-1535	\$10
42	Improper pedestrian movement in crosswalk	8-1536	\$10
43	Improper use of roadway by pedestrian	8-1537	\$10

1	Soliciting ride or business on roadway	8-1538	\$10
2	Driving through safety zone	8-1539	\$10
3	Failure to yield to pedestrian on sidewalk	8-1540	\$10
4	Failure of pedestrian to yield to emergency vehicle	8-1541	\$10
5	Failure to yield to blind pedestrian	8-1542	\$10
6	Pedestrian disobeying bridge or railroad signal	8-1544	\$10
7	Improper turn or approach	8-1545	\$20
8	Improper "U" turn	8-1546	\$20
9	Unsafe starting of stopped vehicle	8-1547	\$10
10	Unsafe turning or stopping, failure to give proper	8-1548	\$20
11	signal; using turn signal unlawfully		
12	Improper method of giving notice of intention to turn	8-1549	\$10
13	Improper hand signal	8-1550	\$10
14	Failure to stop or obey railroad crossing signal	8-1551	\$60
15	Failure to stop at railroad crossing stop sign	8-1552	\$40
16	Certain hazardous vehicles failure to stop at railroad	8-1553	\$60
17	crossing		
18	Improper moving of heavy equipment at railroad	8-1554	\$20
19	crossing		
20	Vehicle emerging from alley, private roadway,	8-1555	\$20
21	building or driveway		
22	Improper passing of school bus; improper use of	8-1556	\$100
23	school bus signals		
24	Improper passing of church or day-care bus;	8-1556a	\$60
25	improper use of signals		
26	Impeding normal traffic by slow speed	8-1561	\$10
27	Speeding on motor-driven cycle	8-1562	\$20
28	Speeding in certain vehicles or on posted bridge	8-1563	\$10
29	Improper stopping, standing or parking on roadway	8-1569	\$10
30	Parking, standing or stopping in prohibited area	8-1571	\$10
31	Improper parking	8-1572	\$10
32	Unattended vehicle	8-1573	\$10
33	Improper backing	8-1574	\$10
34	Driving on sidewalk	8-1575	\$10
35	Driving with view or driving mechanism obstructed	8-1576	\$10
36	Unsafe opening of vehicle door	8-1577	\$10
37	Riding in house trailer	8-1578	\$10
38	Improper driving in defiles, canyons, or on grades	8-1579	\$10
39	Coasting	8-1580	\$10
40	Following fire apparatus too closely	8-1581	\$20
41	Driving over fire hose	8-1582	\$10
42	Putting glass, etc., on highway	8-1583	\$30
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1	Driving into intersection, crosswalk, or crossing	8-1584	\$10
2	without sufficient space on other side		
3	Improper operation of snowmobile on highway	8-1585	\$10
4	Parental responsibility of child riding bicycle	8-1586	\$10
5	Not riding on bicycle seat; too many persons on	8-1588	\$10
6	bicycle		
7	Clinging to other vehicle	8-1589	\$10
8	Improper riding of bicycle on roadway	8-1590	\$10
9	Carrying articles on bicycle; one hand on handlebars	8-1591	\$10
10	Improper bicycle lamps, brakes or reflectors	8-1592	\$10
11	Improper operation of motorcycle; seats; passengers,	8-1594	\$10
12	bundles		
13	Improper operation of motorcycle on laned roadway	8-1595	\$20
14	Motorcycle clinging to other vehicle	8-1596	\$10
15	Improper motorcycle handlebars or passenger	8-1597	\$20
16	equipment		
17	Motorcycle helmet and eye-protection requirements	8-1598	\$10
18	Unlawful riding on vehicle	8-1578a	\$20
19	Unlawful operation of all-terrain vehicle	8-15,100	\$20
20	Unlawful operation of low-speed vehicle	8-15,101	\$20
21	<i>Unlawful use of cellular telephone</i>	<i>section 1</i>	<i>\$30</i>
22	Equipment offenses that are not misdemeanors	8-1701	\$20
23	Driving without lights when needed	8-1703	\$20
24	Defective headlamps	8-1705	\$10
25	Defective tail lamps	8-1706	\$10
26	Defective reflector	8-1707	\$10
27	Improper stop lamp or turn signal	8-1708	\$10
28	Improper lighting equipment on certain vehicles	8-1710	\$10
29	Improper lamp color on certain vehicles	8-1711	\$10
30	Improper mounting of reflectors and lamps on certain	8-1712	\$10
31	vehicles		
32	Improper visibility of reflectors and lamps on certain	8-1713	\$10
33	vehicles		
34	No lamp or flag on projecting load	8-1715	\$20
35	Improper lamps on parked vehicle	8-1716	\$10
36	Improper lights, lamps, reflectors and emblems on	8-1717	\$10
37	farm tractors or slow-moving vehicles		
38	Improper lamps and equipment on implements of	8-1718	\$10
39	husbandry, road machinery or animal-drawn		
40	vehicles		
41	Unlawful use of spot, fog, or auxiliary lamp	8-1719	\$10
42	Improper lamps or lights on emergency vehicle	8-1720	\$10
43	Improper stop or turn signal	8-1721	\$10

1	Improper vehicular hazard warning lamp	8-1722	\$10
2	Unauthorized additional lighting equipment	8-1723	\$10
3	Improper multiple-beam lights	8-1724	\$10
4	Failure to dim headlights	8-1725	\$20
5	Improper single-beam headlights	8-1726	\$10
6	Improper speed with alternate lighting	8-1727	\$10
7	Improper number of driving lamps	8-1728	\$10
8	Unauthorized lights and signals	8-1729	\$10
9	Improper school bus lighting equipment and warning	8-1730	\$10
10	devices		
11	Unauthorized lights and devices on church or day-	8-1730a	\$10
12	care bus		
13	Improper lights on highway construction or	8-1731	\$10
14	maintenance vehicles		
15	Defective brakes	8-1734	\$10
16	Defective or improper use of horn or warning device	8-1738	\$10
17	Defective muffler	8-1739	\$10
18	Defective mirror	8-1740	\$10
19	Defective wipers; obstructed windshield or windows	8-1741	\$10
20	Improper tires	8-1742	\$10
21	Improper flares or warning devices	8-1744	\$10
22	Improper use of vehicular hazard warning lamps and	8-1745	\$10
23	devices		
24	Improper air-conditioning equipment	8-1747	\$10
25	TV screen visible to driver	8-1748	\$10
26	Improper safety belt or shoulder harness	8-1749	\$10
27	Improper wide-based single tires	8-1742b	\$20
28	Defective motorcycle headlamp	8-1801	\$10
29	Defective motorcycle tail lamp	8-1802	\$10
30	Defective motorcycle reflector	8-1803	\$10
31	Defective motorcycle stop lamps and turn signals	8-1804	\$10
32	Defective multiple-beam lighting	8-1805	\$10
33	Improper road-lighting equipment on motor-driven	8-1806	\$10
34	cycles		
35	Defective motorcycle or motor-driven cycle brakes	8-1807	\$10
36	Improper performance ability of brakes	8-1808	\$10
37	Operating motorcycle with disapproved braking	8-1809	\$10
38	system		
39	Defective horn, muffler, mirrors or tires	8-1810	\$10
40	Unlawful statehouse parking	75-4510a	\$5

41 (d) Traffic offenses classified as traffic infractions by this section shall
42 be classified as ordinance traffic infractions by those cities adopting
43 ordinances prohibiting the same offenses. A schedule of fines for all

1 ordinance traffic infractions shall be established by the municipal judge
2 in the manner prescribed by K.S.A. 12-4305 and amendments thereto.
3 Such fines may vary from those contained in the uniform fine schedule
4 contained in subsection (c).

5 (e) Fines listed in the uniform fine schedule contained in subsection
6 (c) shall be doubled if a person is convicted of a traffic infraction, which
7 is defined as a moving violation in accordance with rules and regulations
8 adopted pursuant to K.S.A. 8-249, and amendments thereto, committed
9 within any road construction zone as defined in K.S.A. 2000 Supp. 8-
10 1458a, and amendments thereto.

11 Sec. 3. K.S.A. 2000 Supp. 8-2118 is hereby repealed.

12 Sec. 4. This act shall take effect and be in force from and after its
13 publication in the statute book.

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