

## SENATE BILL No. 322

By Committee on Judiciary

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AN ACT concerning appeals; relating to the computation of time to appeal; amending K.S.A. 2003 Supp. 22-3609 and repealing the existing section.

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

Section 1. K.S.A. 2003 Supp. 22-3609 is hereby amended to read as follows: 22-3609. (1) The defendant shall have the right to appeal to the district court of the county from any judgment of a municipal court which adjudges the defendant guilty of a violation of the ordinances of any municipality of Kansas. The appeal shall be assigned by the chief judge to a district judge. The appeal shall stay all further proceedings upon the judgment appealed from.

(2) An appeal to the district court shall be taken by filing, in the district court of the county in which the municipal court is located, a notice of appeal and any appearance bond required by the municipal court. Municipal court clerks are hereby authorized to accept notices of appeal and appearance bonds under this subsection and shall forward such notices and bonds to the district court. No appeal shall be taken more than 10 days after the date of the judgment appealed from. *Computation of the 10-day period shall exclude any day on which both the municipal court clerk's office and the court clerk's office in the county in which the appeal is to be filed are closed.*

(3) The notice of appeal shall designate the judgment or part of the judgment appealed from. The defendant shall cause notice of the appeal to be served upon the city attorney prosecuting the case. The judge whose judgment is appealed from or the clerk of the court, if there is one, shall certify the complaint and warrant to the district court of the county, but failure to do so shall not affect the validity of the appeal.

(4) Except as provided herein, the trial of municipal appeal cases shall be to the court unless a jury trial is requested in writing by the defendant not later than seven days after first notice of trial assignment is given to the defendant or such defendant's counsel. The time requirement provided in this subsection regarding when a jury trial shall be requested may be waived in the discretion of the court upon a finding that imposing such time requirement would cause undue hardship or prejudice to the

1 defendant. A jury in a municipal appeal case shall consist of six members.  
2 All appeals taken by a defendant from a municipal judge in cigarette or  
3 tobacco infraction or traffic infraction cases shall be tried by the court.

4 (5) Notwithstanding the other provisions of this section, appeal from  
5 a conviction rendered pursuant to subsection (b) of K.S.A. 12-4416, and  
6 amendments thereto, shall be conducted only on the record of the stip-  
7 ulation of facts relating to the complaint.

8 Sec. 2. K.S.A. 2003 Supp. 22-3609 is hereby repealed.

9 Sec. 3. This act shall take effect and be in force from and after its  
10 publication in the statute book.

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