

SENATE BILL No. 224

By Committee on Transportation

1-30

9 AN ACT regulating traffic; concerning certain right-of-way violations;
10 providing increased penalties; amending K.S.A. 2006 Supp. 8-255 and
11 repealing the existing section.
12

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

14 New Section 1. (a) Any person who is convicted of violating K.S.A.
15 8-1526, 8-1527, 8-1528, 8-1529 or 8-1531, and amendments thereto, and
16 as a result of such violation, such person was involved in a vehicle accident
17 or collision resulting in property damage in excess of \$1,000, upon con-
18 viction such person shall be guilty of a misdemeanor and shall be fined
19 \$200 and such person's driving privileges shall be suspended for 60 days.

20 (b) Any person who is convicted of violating K.S.A. 8-1526, 8-1527,
21 8-1528, 8-1529 or 8-1531, and amendments thereto, and as a result of
22 such violation, such person was involved in a vehicle accident or collision
23 resulting in injury to any person, upon conviction such person shall be
24 guilty of a misdemeanor and shall be fined \$500 and such person's driving
25 privileges shall be suspended for 90 days.

26 (c) Any person who is convicted of violating K.S.A. 8-1526, 8-1527,
27 8-1528, 8-1529 or 8-1531, and amendments thereto, and as a result of
28 such violation, such person was involved in a vehicle accident or collision
29 resulting in the death of any person, upon conviction such person shall
30 be guilty of a misdemeanor and shall be sentenced to not less than six
31 months imprisonment and fined \$1,000. Such person's driving privileges
32 shall be suspended for three years.

33 (d) Upon a second or subsequent conviction of a violation of subsec-
34 tion (a), a person shall be guilty of a misdemeanor and shall be fined
35 \$1,000 and such person's driving privileges shall be suspended for 180
36 days.

37 (e) Upon a second or subsequent conviction of a violation of subsec-
38 tion (b), a person shall be guilty of a misdemeanor and shall be sentenced
39 to not less than 90 days imprisonment and fined \$2,000. Such person's
40 driving privileges shall be suspended for one year.

41 (f) Upon a second or subsequent conviction of a violation of subsec-
42 tion (c), a person shall be guilty of a misdemeanor and shall be sentenced
43 to not less than one year imprisonment and fined not less than \$5,000.

1 Such person's driving privileges shall be suspended for three years.

2 (g) For the purpose of this section, "conviction" means a final con-
3 viction without regard whether sentence was suspended or probation
4 granted after such conviction. Forfeiture of bail, bond or collateral de-
5 posited to secure a defendant's appearance in court, which forfeiture has
6 not been vacated, shall be equivalent to a conviction.

7 Sec. 2. K.S.A. 2006 Supp. 8-255 is hereby amended to read as fol-
8 lows: 8-255. (a) The division is authorized to restrict, suspend or revoke
9 a person's driving privileges upon a showing by its records or other suf-
10 ficient evidence the person:

11 (1) Has been convicted with such frequency of serious offenses
12 against traffic regulations governing the movement of vehicles as to in-
13 dicate a disrespect for traffic laws and a disregard for the safety of other
14 persons on the highways;

15 (2) has been convicted of three or more moving traffic violations com-
16 mitted on separate occasions within a 12-month period;

17 (3) is incompetent to drive a motor vehicle;

18 (4) has been convicted of a moving traffic violation, committed at a
19 time when the person's driving privileges were restricted, suspended or
20 revoked; or

21 (5) is a member of the armed forces of the United States stationed
22 at a military installation located in the state of Kansas, and the authorities
23 of the military establishment certify that such person's on-base driving
24 privileges have been suspended, by action of the proper military author-
25 ities, for violating the rules and regulations of the military installation
26 governing the movement of vehicular traffic or for any other reason re-
27 lating to the person's inability to exercise ordinary and reasonable control
28 in the operation of a motor vehicle.

29 (b) The division shall suspend a person's driving privileges when re-
30 quired by K.S.A. 8-262, 8-1014, 41-727 or K.S.A. 2006 Supp. 21-3765,
31 and amendments thereto, *and section 1, and amendments thereto*, and
32 shall disqualify a person's privilege to drive commercial motor vehicles
33 when required by K.S.A. 8-2,142, and amendments thereto. The division
34 shall restrict a person's driving privileges when required by K.S.A. 2006
35 Supp. 39-7,155, and amendments thereto.

36 (c) When the action by the division restricting, suspending, revoking
37 or disqualifying a person's driving privileges is based upon a report of a
38 conviction or convictions from a convicting court, the person may not
39 request a hearing but, within 30 days after notice of restriction, suspen-
40 sion, revocation or disqualification is mailed, may submit a written request
41 for administrative review and provide evidence to the division to show
42 the person whose driving privileges have been restricted, suspended, re-
43 voked or disqualified by the division was not convicted of the offense

1 upon which the restriction, suspension, revocation or disqualification is
2 based. Within 30 days of its receipt of the request for administrative
3 review, the division shall notify the person whether the restriction, sus-
4 pension, revocation or disqualification has been affirmed or set aside. The
5 request for administrative review shall not stay any action taken by the
6 division.

7 (d) Upon restricting, suspending, revoking or disqualifying the driv-
8 ing privileges of any person as authorized by this act, the division shall
9 immediately notify the person in writing. Except as provided by K.S.A.
10 8-1002 and 8-2,145, and amendments thereto, and subsections (c) and
11 (g), if the person makes a written request for hearing within 30 days after
12 such notice of restriction, suspension or revocation is mailed, the division
13 shall afford the person an opportunity for a hearing as early as practical
14 not sooner than five days nor more than 30 days after such request is
15 mailed. If the division has not revoked or suspended the person's driving
16 privileges or vehicle registration prior to the hearing, the hearing may be
17 held within not to exceed 45 days. Except as provided by K.S.A. 8-1002
18 and 8-2,145, and amendments thereto, the hearing shall be held in the
19 person's county of residence or a county adjacent thereto, unless the
20 division and the person agree that the hearing may be held in some other
21 county. Upon the hearing, the director or the director's duly authorized
22 agent may administer oaths and may issue subpoenas for the attendance
23 of witnesses and the production of relevant books and papers and may
24 require an examination or reexamination of the person. When the action
25 proposed or taken by the division is authorized but not required, the
26 division, upon the hearing, shall either rescind or affirm its order of re-
27 striction, suspension or revocation or, good cause appearing therefor, ex-
28 tend the restriction or suspension of the person's driving privileges, mod-
29 ify the terms of the restriction or suspension or revoke the person's driving
30 privileges. When the action proposed or taken by the division is required,
31 the division, upon the hearing, shall either affirm its order of restriction,
32 suspension, revocation or disqualification, or, good cause appearing there-
33 for, dismiss the administrative action. If the person fails to request a
34 hearing within the time prescribed or if, after a hearing, the order of
35 restriction, suspension, revocation or disqualification is upheld, the per-
36 son shall surrender to the division, upon proper demand, any driver's
37 license in the person's possession.

38 (e) In case of failure on the part of any person to comply with any
39 subpoena issued in behalf of the division or the refusal of any witness to
40 testify to any matters regarding which the witness may be lawfully inter-
41 rogated, the district court of any county, on application of the division,
42 may compel obedience by proceedings for contempt, as in the case of
43 disobedience of the requirements of a subpoena issued from the court or

1 a refusal to testify in the court. Each witness who appears before the
2 director or the director's duly authorized agent by order or subpoena,
3 other than an officer or employee of the state or of a political subdivision
4 of the state, shall receive for the witness' attendance the fees and mileage
5 provided for witnesses in civil cases in courts of record, which shall be
6 audited and paid upon the presentation of proper vouchers sworn to by
7 the witness.

8 (f) The division, in the interest of traffic and safety, may establish
9 driver improvement clinics throughout the state and, upon reviewing the
10 driving record of a person whose driving privileges are subject to suspen-
11 sion under subsection (a)(2), may permit the person to retain such per-
12 son's driving privileges by attending a driver improvement clinic. A person
13 who is required to attend a driver improvement clinic shall pay a fee of
14 \$15. Amounts received under this subsection shall be remitted to the state
15 treasurer in accordance with the provisions of K.S.A. 75-4215, and
16 amendments thereto. Upon receipt of each such remittance, the state
17 treasurer shall deposit the same in the state treasury to the credit of the
18 division of vehicles operating fund.

19 (g) When the action by the division restricting a person's driving priv-
20 ileges is based upon certification by the secretary of social and rehabili-
21 tation services pursuant to K.S.A. 2006 Supp. 39-7,155, and amendments
22 thereto, the person may not request a hearing but, within 30 days after
23 notice of suspension is mailed, may submit a written request for admin-
24 istrative review and provide evidence to the division to show the person
25 whose driving privileges have been restricted by the division is not the
26 person certified by the secretary of social and rehabilitation services, did
27 not receive timely notice of the proposed restriction from the secretary
28 of social and rehabilitation services or has been decertified by the sec-
29 retary of social and rehabilitation services. Within 30 days of its receipt
30 of the request for administrative review, the division shall notify the per-
31 son whether the restriction has been affirmed or set aside. The request
32 for administrative review shall not stay any action taken by the division.

33 Sec. 3. K.S.A. 2006 Supp. 8-255 is hereby repealed.

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