

SENATE BILL No. 366

AN ACT concerning traffic citations; pertaining to giving notice of failure to comply; amending K.S.A. 8-2106 and K.S.A. 2007 Supp. 8-2110 and repealing the existing sections.

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

Section 1. K.S.A. 2007 Supp. 8-2110 is hereby amended to read as follows: 8-2110. (a) Failure to comply with a traffic citation means failure either to (1) appear before any district or municipal court in response to a traffic citation and pay in full any fine and court costs imposed or (2) otherwise comply with a traffic citation as provided in K.S.A. 8-2118, and amendments thereto. Failure to comply with a traffic citation is a misdemeanor, regardless of the disposition of the charge for which such citation was originally issued.

(b) In addition to penalties of law applicable under subsection (a), when a person fails to comply with a traffic citation, except for illegal parking, standing or stopping, the district or municipal court in which the person should have complied with the citation shall mail notice to the person that if the person does not appear in district or municipal court or pay all fines, court costs and any penalties within 30 days from the date of mailing *notice*, the division of vehicles will be notified to suspend the person's driving privileges. *The district or municipal court may charge an additional fee of \$5 for mailing such notice.* Upon the person's failure to comply within such 30 days of *mailing notice*, the district or municipal court shall electronically notify the division of vehicles. Upon receipt of a report of a failure to comply with a traffic citation under this subsection, pursuant to K.S.A. 8-255, and amendments thereto, the division of vehicles shall notify the violator and suspend the license of the violator until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the informing court. When the court determines the person has complied with the terms of the traffic citation, the court shall immediately electronically notify the division of vehicles of such compliance. Upon receipt of notification of such compliance from the informing court, the division of vehicles shall terminate the suspension or suspension action.

(c) Except as provided in subsection (d), when the district or municipal court notifies the division of vehicles of a failure to comply with a traffic citation pursuant to subsection (b), the court shall assess a reinstatement fee of \$50 for each charge on which the person failed to make satisfaction regardless of the disposition of the charge for which such citation was originally issued. Such reinstatement fee shall be in addition to any fine, district or municipal court costs and other penalties. The court shall remit all reinstatement fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit 50% of such moneys to the division of vehicles operating fund, 37.5% to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, and 12.5% to the juvenile detention facilities fund created by K.S.A. 79-4803, and amendments thereto.

(d) The district court or municipal court shall waive the reinstatement fee provided for in subsection (c), if the failure to comply with a traffic citation was the result of such person enlisting in or being drafted into the armed services of the United States, being called into service as a member of a reserve component of the military service of the United States, or volunteering for such active duty, or being called into service as a member of the state of Kansas national guard, or volunteering for such active duty, and being absent from Kansas because of such military service. In any case of a failure to comply with a traffic citation which occurred on or after August 1, 1990, and prior to the effective date of this act, in which a person was assessed and paid a reinstatement fee and the person failed to comply with a traffic citation because the person was absent from Kansas because of any such military service, the reinstatement fee shall be reimbursed to such person upon application therefor. The state treasurer and the director of accounts and reports shall prescribe procedures for all such reimbursement payments and shall create appropriate accounts, make appropriate accounting entries and issue such appropriate vouchers and warrants as may be required to make such reimbursement payments.

(e) The reinstatement fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for such rein-

statement. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

Sec. 2. K.S.A. 8-2106 is hereby amended to read as follows: 8-2106.

(a) A law enforcement officer may prepare and deliver to a person a written traffic citation on a form approved by the division of motor vehicles, if the law enforcement officer stops the person for a violation of:

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

(2) K.S.A. 8-262, 8-287, 8-2,144, 21-3610, 21-3610a, 21-3722, 21-3724, 21-3725, 21-3728, 21-4101, 40-3104, 40-3106, 41-715, 41-724, 41-727, 47-607, 66-1,111, 66-1,129, 66-1,139, 66-1,140, 66-273, 66-1314, 66-1324, 66-1330, 66-1331, 66-1332, 68-2104, 68-2106, subsection (b) of K.S.A. 79-34,122, or K.S.A. 8-1599, and amendments thereto;

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

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

(5) any rules and regulations adopted pursuant to K.S.A. 2-1212, 68-2001 or 31-146, and amendments thereto;

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

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

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

(b) The citation shall contain a notice to appear in court, the name and address of the person, the type of vehicle the person was driving, whether hazardous materials were being transported, whether an accident occurred, the state registration number of the person's vehicle, if any, a statement whether the vehicle is a commercial vehicle, whether the person is licensed to drive a commercial motor vehicle, the offense or offenses charged, the time and place when and where the person shall appear in court, the signature of the law enforcement officer, and any other pertinent information.

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

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

(e) Except in the circumstances to which subsection (a) of K.S.A. 8-2104, and amendments thereto, apply, in the discretion of the law enforcement officer, a person charged with a misdemeanor may give written promise to appear in court by signing at least one copy of the written citation prepared by the law enforcement officer, in which event the law enforcement officer shall deliver a copy of the citation to the person and shall not take the person into physical custody.

(f) When a person is charged with a traffic infraction, the notice to appear shall provide a place where the person may make a written entry of appearance, waive the right to a trial and plead guilty or no contest. *Such notice to appear shall contain a provision that the person's failure to either pay such fine and court costs or appear at the specified time may result in suspension of the person's drivers' license as provided in K.S.A. 8-2110, and amendments thereto.* The notice to appear shall provide a space where the law enforcement officer shall enter the appropriate fine specified in the uniform fine schedule contained in K.S.A. 8-2118, and amendments thereto, for the violation charged and court costs in the amount provided by law. If the notice to appear does not do so, the law enforcement officer shall provide a person charged with a traffic infraction a form explaining the person's right to appear and right to a trial; *and the person's right to pay the appropriate fine and court costs prior to the appearance date, and that failure to either pay such fine and court costs or appear at the specified time may result in suspension of the person's driver's license.* The law enforcement officer shall provide the person with the address of the court to which the written entry of appearance, waiver of trial, plea of guilty or no contest and payment of fine and court costs shall be mailed.

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

Sec. 3. K.S.A. 8-2106 and K.S.A. 2007 Supp. 8-2110 are hereby repealed.

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

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE concurred in
HOUSE amendments _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.