

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE BILL NO. 500**

As Agreed to April 5, 2024

Brief*

SB 500 would amend law pertaining to restricted driving privileges for certain individuals who violate the misdemeanor offense of failure to comply with a traffic citation (failure to comply). The bill would take effect on January 1, 2025.

Failure to Comply with a Traffic Citation

Payment of Fines, Court Costs, and Penalties

Under continuing law, failure to appear in court in response to a traffic citation and pay fines and court costs associated with such citation constitutes failure to comply. Upon such failure, the individual has 30 days to appear and pay fines, court costs, and penalties before the driving privileges of the individual are required to be suspended.

The bill would amend requirements that any such fines, court costs, or penalties be paid in full, to instead require payment of an amount as ordered by the court.

Reinstatement Fees

The bill would limit reinstatement fees assessed under continuing law following failure to comply to a single fee of \$100.

[Note: Current law imposes a separate \$100 reinstatement fee for each charge associated with the citation with which the individual did not comply, regardless of the disposition of the charge.]

Forms for Waiving or Reducing Payment of Court Costs or Fines

Under continuing law, a person who is assessed a fine or court costs for a traffic citation may petition the court to waive payment, or any portion, of the fine or costs. The bill would

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require the clerks of the district court and municipal court to make forms available to any person seeking to make such a motion.

Waivers and Alternatives to Restriction or Suspension

The bill would require the court to consider the following options before issuing an order to restrict or suspend an individual's driving privileges:

- Waiver, reduction of fees, fines and court costs, allowing for payment plans of such fees, fines, and costs; and
- Alternative requirements in lieu of restriction or suspension of driving privileges, including, but not limited to, alcohol or drug treatment or community service.

The bill would specify in considering these waivers or alternatives, the court would not be required to make written findings or written payment plan orders.

Offense Look-back

The bill would prohibit courts or the Division of Vehicles (Division), Kansas Department of Revenue, from considering any conviction for a failure to comply that is older than five years in determinations of suspension or restriction of driving privileges. The bill would require the Division to notify suspended or restricted individuals whose driving privileges have not been restored that they could be eligible for driving privileges pursuant to this provision.

Exclusions

Continuing law excludes illegal parking, standing, or stopping as grounds for failure to comply. The bill would also exclude certain violations not pertaining to the operation of a motor vehicle from violations for which non-compliance with the terms of a citation would constitute failure to comply and would provide these exclusions apply retroactively.

The bill would provide a person could petition the court to determine whether a previous violation for failure to comply would be excluded under the provisions of the bill. If the court determines the person committed an offense that would be excluded, the court would be required to immediately electronically notify the Division. The Division would be required to terminate any restriction, suspension, or suspension action that resulted from the prior violation upon receipt of the court's notification.

[*Note:* Under current law, non-compliance with any traffic citation, as defined by KSA 8-2106, constitutes grounds for failure to comply.]

Restricted Driving Privileges

Automatic Restriction of Driving Privileges

The bill would require the Division to restrict, rather than suspend, the driving privileges of eligible individuals as described below, upon a violation of failure to comply and subsequent notification by the court.

The bill would authorize restoration of driving privileges to be provided upon an individual entering into an agreement with the court regarding the person's failure to comply.

Eligibility

Individuals would be eligible for the automatic restricted driving privileges authorized under the bill, provided:

- The individual does not have more than three convictions for driving with a canceled, suspended, or revoked license; and
- The license of the individual is not suspended for reasons other than failure to comply.

The bill would specify drivers applying for restricted driving privileges in lieu of suspension under continuing law would be eligible to apply for a restricted license if they have previously been approved for restricted driving privileges under the automatic granting of restricted driving privileges authorized by the bill.

Restricted Driving Privileges for Drivers with Revoked Licenses for Failure to Comply

The bill would also authorize a restricted driver's license for a person whose driving privileges have been revoked for driving while the person's driving privilege was canceled, suspended, or revoked only for failure to comply.

The bill would remove, for drivers meeting the conditions for reinstatement under provisions of the bill, a mandatory three-year driver's license revocation for drivers whose license has been suspended solely for driving while the person's driving privilege was canceled, suspended, or revoked only for failure to comply.

Duration of Restrictions

The duration of restricted driving privileges would vary depending on the circumstances in which restrictions are granted.

For any driver granted restricted driving privileges pursuant to the bill, the Division would be directed to restore driving privileges upon notice of a determination by the court that the individual has substantially complied with the terms of the traffic citation.

The bill would define “substantial compliance” to mean the person has followed the orders of the court involving payments of fines, court costs, and any penalties, and has not failed substantially in making payments or satisfying the terms of the court order, and would replace existing references to “compliance” in the statute with “substantial compliance.”

Otherwise, restricted driving privileges would remain in effect unless otherwise rescinded, as follows:

- For drivers qualifying for automatic restriction of driving privileges prior to suspension, the lesser of:
 - 60 days from the date that the Division mails notice of restricted driving privileges; or
 - Upon the person entering into an agreement with the court regarding the person’s failure to comply;
- For drivers applying for restricted driving privileges under continuing law:
 - Until the terms of the traffic citation have been substantially complied with; or
- For drivers qualifying for restricted driving privileges following license revocation, the lesser of:
 - The remainder of time the person’s driving privileges are revoked; or
 - Three years from the date the restricted driving privileges were approved.

Permissible Driving Activities

The bill would add driving for the purpose of transporting children to and from school or child care, purchasing groceries or fuel, and attending religious worship services to the list of driving activities permitted when restricted driving privileges are granted for failure to comply. Permissible driving activities would be the same for all circumstances in which restricted driving privileges would be authorized under the bill.

Violation of Restrictions

The bill would state a person operating a motor vehicle in violation of restrictions authorized under the bill would be guilty of operating a vehicle in violation of restrictions, which would be a misdemeanor.

The bill would require the Division to rescind restricted driving privileges authorized under the bill if the person is found guilty of a violation, other than failure to comply, that results in driver’s license suspension, revocation, or cancellation.

The bill would also require, for drivers qualifying for automatic restriction of driving privileges prior to suspension, the rescission of restricted driving privileges if the individual is found guilty of operating a motor vehicle in violation of restrictions, as provided for by the bill.

Conference Committee Action

The Conference Committee agreed to adopt the provisions of SB 500, as amended by the House Committee of the Whole, and further agreed to amend the bill to:

- Clarify that certain exclusions to violations that constitute failure to comply would apply retroactively and add language concerning a process by which an individual could petition to have previous violations excluded;
- Remove a reference to a date that no longer applies;
- Require the court to consider waiving fines, fees, or costs or other alternatives such as drug or alcohol treatment or community service before restricting or suspending an individual's driving privileges; and
- Prohibit courts or the Division from considering any conviction for a failure to comply that is older than five years and requiring the Division to notify individuals whose driving privileges may be restored.

Background

The bill was introduced by the Senate Committee on Judiciary at the request of Senator Wilborn.

Senate Committee on Judiciary

In the Senate Committee hearing, **proponent** testimony was provided by Senator Faust-Goudeau, a representative of the Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and Kansas Peace Officers Association, and representatives of the Kansas Chamber, Kansas Department of Revenue, Division of Vehicles (DMV), and the Sedgwick County Board of County Commissioners. The proponents stated the bill would help people get out of the cycle of traffic debt and remain in the workforce while still being held accountable, is the product of work done by stakeholders for the last several years on the topic, and adequately addresses concerns previously raised by the Legislature.

Written-only proponent testimony was provided by three representatives of the Racial Profiling Advisory Board of Wichita.

Written-only neutral testimony was provided by a representative of Justice Action Network.

No other testimony was provided.

Opponent testimony was provided by a representative of Kansas Appleseed Center for Law and Justice, who expressed a general opposition to debt-based license restrictions.

The Senate Committee adopted amendments to:

- Replace existing language regarding waiver of fines, fees, and court costs with language providing for hardship payment plans and credits [*Note: The Conference Committee did not retain this amendment.*];
- Add language excluding certain violations from the offense of failure to comply [*Note: The Conference Committee retained this amendment.*];
- Clarify compliance under the bill must be substantial [*Note: The Conference Committee retained this amendment.*];
- Add language requiring court orders restricting or suspending an individual's driving privileges to contain certain information notifying the individual what constitutes substantial compliance and for the court to consider waiver or alternatives to restriction or suspension [*Note: The Conference Committee retained this amendment.*];
- Add language prohibiting courts or the Division from considering any conviction for a failure to comply that is older than five years and requiring the Division to notify individuals whose driving privileges may be restored [*Note: The Conference Committee retained this amendment.*];
- Add driving activities that would be permitted for a person with restricted driving privileges [*Note: The Conference Committee retained this amendment.*]; and
- Make the bill effective upon publication in the *Kansas Register*. [*Note: The Conference Committee did not retain this amendment.*]

House Committee on Judiciary

In the House Committee hearing, **proponent** testimony was provided by Senator Faust-Goudeau; a representative of the Kansas Association of Chiefs of Police, the Kansas Peace Officers Association, and the Kansas Sheriffs Association; representatives of the Kansas Appleseed Center for Law and Justice, Kansas Chamber, and DMV; and a private citizen. The proponents generally stated the bill would allow people to continue to work, take care of their children, and allow them to pay back their fines and costs.

Written-only proponent testimony was provided by a representative of the Justice Action Network.

Neutral testimony was provided by a representative of the Kansas Judicial Branch, identifying concerns related to courts implementing the bill's provisions.

No other testimony was provided.

The House Committee amended the bill to:

- Remove language concerning hardship payment plans and credits to be earned against costs and fees [*Note: The Conference Committee retained this amendment.*];

- Remove language requiring court orders restricting or suspending an individual's driving privileges to contain certain information notifying the individual what constitutes substantial compliance and for the court to consider waiver or alternatives to restriction or suspension [*Note: The Conference Committee did not retain this amendment.*];
- Remove language prohibiting courts or the Division from considering any conviction for a failure to comply that is older than five years and requiring the Division to notify individuals whose driving privileges may be restored. [*Note: The Conference Committee did not retain this amendment.*]; and
- Change the effective date to upon publication in the statute book [*Note: The Conference Committee did not retain this amendment.*].

House Committee of the Whole

The House Committee of the Whole amended the bill to change the bill's effective date to January 1, 2025 [*Note: The Conference Committee retained this amendment.*].

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of Judicial Administration (OJA) states enactment of the bill could have an unknown fiscal effect on Judicial Branch operations due to the potential for increased processing time required by filings under the provisions of the bill. The OJA estimates enactment of the bill could result in a decrease in driver's license reinstatement fees, fines, and other court costs, which would affect both the State General Fund (SGF) and other state funds.

The Kansas Department of Revenue indicates the bill would require \$1,250 from SGF in FY 2025 to implement the bill and to modify its systems utilizing existing staff, though additional expenditures for outside contract programmer services beyond the Department's current budget may be required if implementation of the bill exceeds existing resources. The Department also indicates changes to reinstatement fees could have an unknown effect on the proportion of those fees credited to the Division of Vehicles Operating Fund. Any fiscal effect associated with enactment of the bill 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. The Kansas Association of Counties is unable to estimate a fiscal effect for counties resulting from the enactment of the bill.

Driver's licenses; suspension; revocation; restricted driving privileges; failure to comply with a citation

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