

As Amended by House Committee

HOUSE BILL No. 2040

By Committee on Judiciary

1-16

HB2040-FA-Rubin
Prepared by: Jason Thompson
Office of Revisor of Statutes
February 15, 2015

1 AN ACT concerning driving; relating to driving while license canceled,
2 suspended or revoked; amending K.S.A. 2014 Supp. 8-262 and
3 repealing the existing section.
4

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

6 Section 1. K.S.A. 2014 Supp. 8-262 is hereby amended to read as
7 follows: 8-262. (a) (1) Any person who drives a motor vehicle on any
8 highway of this state at a time when such person's privilege so to do is
9 canceled, suspended or revoked or while such person's privilege to obtain
10 a driver's license is suspended or revoked pursuant to K.S.A. 8-252a, and
11 amendments thereto, shall be guilty of a class B nonperson misdemeanor
12 on the first conviction and a class A nonperson misdemeanor on the second
13 or subsequent conviction. ←

14 (2) No person shall be convicted under this section if such person was
15 entitled at the time of arrest under K.S.A. 8-257, and amendments thereto,
16 to the return of such person's driver's license.

17 (3) Except as otherwise provided by subsection (a)(4) or (c), every
18 person convicted under this section shall be sentenced to at least five days'
19 imprisonment and fined at least \$100 and upon a second conviction shall
20 not be eligible for parole until completion of five days' imprisonment.

21 (4) Except as otherwise provided by subsection (c), if a person: (A) Is
22 convicted of a violation of this section, committed while the person's
23 privilege to drive or privilege to obtain a driver's license was suspended or
24 revoked for a violation of K.S.A. 8-2, 144 or 8-1567 or K.S.A. 2014 Supp.
25 8-1025, and amendments thereto, or any ordinance of any city or
26 resolution of any county or a law of another state, which ordinance or
27 resolution or law prohibits the acts prohibited by those statutes; and (B) is
28 or has been also convicted of a violation of K.S.A. 8-2, 144 or 8-1567 or
29 K.S.A. 2014 Supp. 8-1025, and amendments thereto, or any ordinance of
30 any city or resolution of any county or law of another state, which
31 ordinance or resolution or law prohibits the acts prohibited by those
32 statutes, committed while the person's privilege to drive or privilege to
33 obtain a driver's license was so suspended or revoked, the person shall not
34 be eligible for suspension of sentence, probation or parole until the person
35 has served at least 90 days' imprisonment, and any fine imposed on such
36 person shall be in addition to such a term of imprisonment. ←

Except as otherwise provided in subsection (a)(4) or (c),
for the purposes of determining whether a conviction is a
first, second or subsequent conviction in sentencing under
this section, only convictions occurring in the immediately
preceding five years, including prior to July 1, 2015, shall
be taken into account.

For the purposes of determining whether a conviction is a
first, second or subsequent conviction in sentencing under
this paragraph, all convictions occurring during a person's
lifetime shall be taken into account.

~~(5) For the purposes of determining whether a conviction is a first, second or subsequent conviction in sentencing under this subsection, only convictions occurring in the immediately preceding five years, including prior to July 1, 2015, shall be taken into account.~~

strike all in lines 1-4

(b) The division, upon receiving a record of the conviction of any person under this section, or any ordinance of any city or resolution of any county or a law of another state which is in substantial conformity with this section, upon a charge of driving a vehicle while the license of such person is revoked or suspended, shall extend the period of such suspension or revocation for an additional period of 90 days.

(c) (1) The person found guilty of a class A nonperson misdemeanor on a third or subsequent conviction of this section shall be sentenced to not less than 90 days' imprisonment and fined not less than \$1,500 if such person's privilege to drive a motor vehicle is canceled, suspended or revoked because such person:

strike colon in line 15

~~(A) Refused to submit and complete any test of blood, breath or urine requested by law enforcement excluding the preliminary screening test as set forth in K.S.A. 8-1012, and amendments thereto;~~

strike all in lines 19-22;

~~(B) (A) Refused to submit and complete any test of blood, breath or urine requested by law enforcement excluding the preliminary screening test as set forth in K.S.A. 8-1012, and amendments thereto; or~~

strike "(B)" in line 23

~~(B) —was convicted of violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage; For the purposes of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this paragraph, only convictions occurring on or after July 1, 2001, shall be taken into account.~~

~~(C) (2) The person found guilty of a class A nonperson misdemeanor on a third or subsequent conviction of this section shall be sentenced to not less than 90 days' imprisonment and fined not less than \$1,500 if such person's privilege to drive a motor vehicle is canceled, suspended or revoked because such person:~~

(A) Refused to submit and complete any test of blood, breath or urine requested by law enforcement, excluding the preliminary screening test as set forth in K.S.A. 8-1012, and amendments thereto;

~~(A) Was convicted of vehicular homicide, K.S.A. 21-3405, prior to its repeal, or K.S.A. 2014 Supp. 21-5406, and amendments thereto, involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or involuntary manslaughter as defined in subsection (a)(3) of K.S.A. 2014 Supp. 21-5405(a)(3), and amendments thereto, or any other murder or manslaughter crime resulting from the operation of a motor vehicle; or~~

(B)

(C)

~~(B) (B) was convicted of being a habitual violator, K.S.A. 8-287, and amendments thereto. For the purposes of determining whether a conviction is a first, second, third or subsequent conviction in sentencing~~

1 *under this paragraph, all convictions occurring during a person's lifetime*
2 *shall be taken into account.*

3 ~~(2)~~ (3) The person convicted shall not be eligible for release on
4 probation, suspension or reduction of sentence or parole until the person
5 has served at least 90 days' imprisonment. The 90 days' imprisonment
6 mandated by this subsection may be served in a work release program only
7 after such person has served 48 consecutive hours' imprisonment, provided
8 such work release program requires such person to return to confinement
9 at the end of each day in the work release program. The court may place
10 the person convicted under a house arrest program pursuant to K.S.A.
11 2014 Supp. 21-6609, and amendments thereto, or any municipal ordinance
12 to serve the remainder of the minimum sentence only after such person has
13 served 48 consecutive hours' imprisonment.

14 (d) For the purposes of determining whether a conviction is a first,
15 second, third or subsequent conviction in sentencing under this section,
16 "conviction" includes a conviction of a violation of any ordinance of any
17 city or resolution of any county or a law of another state which is in
18 substantial conformity with this section.

19 Sec. 2. K.S.A. 2014 Supp. 8-262 is hereby repealed.

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

