CONFERENCE COMMITTEE REPORT BRIEF
SUBSTITUTE FOR HOUSE BILL NO. 2159

As Agreed to May 12, 2015

Brief*

Sub. for HB 2159 would amend the law concerning driving under the influence (DUI).

The bill would amend the statute governing ignition interlock restrictions of driving privileges following a first occurrence of a DUI related test refusal, test failure, or conviction, to allow the person under the restriction to drive to and from the ignition interlock provider for maintenance and downloading of data from the device.

The bill also would amend provisions related to expungement of DUI and test refusal offenses. Specifically, the bill would amend the statutes governing expungement of DUIs and test refusal and city ordinance violations that also would constitute a DUI or test refusal to change to five the number of years that must have elapsed since the person satisfied the sentence or the terms of a diversion agreement or was discharged from probation, parole, postrelease supervision, conditional release, or a suspended sentence before petitioning for expungement of a first DUI conviction. A person could petition for expungement of a second or subsequent conviction of DUI or test refusal after ten years. Current law requires the elapse of ten years for a municipal DUI violation and seven years for a DUI conviction under state law. For test refusal, current law requires the elapse of

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three years for a municipal violation and seven years for a conviction under state law.

Finally, the bill would allow the Division of Vehicles to issue a restricted driver's license with a DUI-IID (Ignition Interlock Device) designation to a licensee allowed to operate a motor vehicle under ignition interlock restrictions. The bill would apply an additional $10 fee to the DUI-IID restricted license; moneys collected from this fee would be deposited into a DUI-IID Designation Fund created by the bill. All other requirements for issuance and renewal of a driver's license would apply.

The remaining amendments are technical.

Conference Committee Action

The Conference Committee agreed to the Senate amendments to Sub. for HB 2159 and agreed to add the contents of SB 23, concerning ignition interlock restrictions of driving privileges, with a technical amendment.

Background

In the House Judiciary Committee, Representative Thimesch and the Kingman County Attorney offered testimony in support of the bill. Representatives of Mothers Against Drunk Driving and the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs' Association appeared as opponents of the bill.

The House Committee adopted a substitute bill, which would change to five the number of years that must have elapsed since the person satisfied the sentence or the terms of a diversion agreement before petitioning for expungement of a DUI. (Current law requires ten years for a municipal violation and seven for a conviction under state law, and the bill, as introduced, would have set the number for both at

seven.) The substitute bill also removes amendments proposed by the bill, as introduced, that would have removed satisfaction of the terms of a diversion agreement from language allowing for expungement after satisfying a sentence or diversion agreement, which would have allowed for expungement of a diversion after three years; clarified the expungement provisions would apply only to felony DUI violations; and removed DUI and test refusal diversion agreements from the definition of "conviction" in the statute defining "habitual violator," which is based on three or more convictions of certain crimes.

Representative Thimesch appeared in support of the bill in the Senate Judiciary Committee. Representatives of Mothers Against Drunk Driving and the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs' Association again appeared as opponents of the bill.

The Senate Committee amended the bill to allow a person to petition for expungement after five years on a first conviction of DUI or criminal test refusal and after ten years on a second or subsequent conviction of DUI or test refusal.

The Senate Committee of the Whole adopted an amendment that would allow a restricted driver's license for use while its holder is on an ignition interlock restriction.

The fiscal note prepared by the Division of the Budget indicates the bill, as introduced, would have caused Kansas to be out of compliance with a federal law that requires a state to look back a minimum of five years for repeat DUI offenders, which would have required a transfer of approximately $8.2 million from federal highway construction funds to federal safety funds.

The Office of Judicial Administration indicates the bill, as introduced, could result in additional motions and appellate cases; however, the precise fiscal effect cannot be determined. The Kansas League of Municipalities notes there

also may be an effect on cities, however, it is difficult to estimate how the bill, as introduced, would affect local government finances.

SB 23

The bill was introduced by the Senate Judiciary Committee at the request of the Kansas Department of Revenue (KDOR).

In the Senate Committee, a KDOR representative testified the bill would bring the restriction provision for first offenders regarding travel to an ignition interlock provider in line with the same provision that currently applies to repeat offenders. There were no other conferees.

The Senate Judiciary Committee recommended the bill be placed on the Consent Calendar.

According to the fiscal note prepared by the Division of the Budget on the bill, the KDOR indicates the bill would have no fiscal effect.

Driving under the influence; ignition interlock devices

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