

SESSION OF 2015

SUPPLEMENTAL NOTE ON SENATE BILL NO. 23

As Amended by House Committee on Judiciary

Brief*

SB 23, as amended, would amend the statute governing ignition interlock restrictions of driving privileges following a first occurrence of a driving under the influence (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 the law concerning sentencing for driving while a person's license is canceled, suspended, or revoked. The bill would provide that, for the purposes of determining whether a conviction for this offense is a first, second, or subsequent conviction, only convictions occurring in the immediately preceding five years, including prior to July 1, 2015, would be taken into account, with the following exceptions:

- To determine the number of previous convictions in applying a special sentencing provision requiring at least 90 days' imprisonment when a person is convicted of driving while suspended or revoked for a DUI-related offense and the person is or has been also convicted of a DUI-related offense committed while so suspended or revoked, all convictions during the person's lifetime would be taken into account;
- To determine the applicability of a special sentencing provision for a third or subsequent

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

conviction of the section when the conviction is for driving while the person's license is canceled, suspended, or revoked because of failure to maintain liability insurance coverage, only convictions occurring on or after July 1, 2001, would be taken into account; and

- To determine the applicability of a special sentencing provision for a third or subsequent conviction of the section when the conviction is for driving while the person's license is canceled, suspended, or revoked because the person refused a DUI test (other than a preliminary screening), was convicted of murder or manslaughter resulting from the operation of a motor vehicle, or was convicted of being a habitual violator, all convictions occurring during the person's lifetime would be taken into account.

Background

SB 23 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.

In the House Committee on Judiciary, a KDOR representative testified as a proponent. There were no other conferees.

The House Committee amended the bill to include language modified from 2015 HB 2040 regarding determination of prior convictions for driving while a driver's license is canceled, suspended, or revoked. The modifications included providing a lifetime lookback for the DUI-related and test refusal special sentencing provisions. Further background regarding HB 2040 is provided below.

According to the fiscal note prepared by the Division of the Budget on SB 23, as introduced, KDOR indicates the bill would have no fiscal effect.

Background of HB 2040

In the House Judiciary Committee, a representative of the City of Wichita appeared in support of HB 2040. There were no opponents.

The House Committee agreed to restore language stricken in the original bill providing that when a person is found guilty of a class A nonperson misdemeanor on a third or subsequent conviction of driving while the person's license is canceled, suspended, or revoked, the penalty is not less than 90 days in prison and a fine of not less than \$1,500 if the cancellation, suspension, or revocation was due to test refusal. By restoring this language, the bill would provide, for that circumstance, only convictions occurring on or after July 1, 2001, would be taken into account.

HB 2040 was stricken from the House Calendar pursuant to Rule 1507.

The fiscal note prepared by the Division of the Budget indicates HB 2040, as introduced, would not result in any additional case filings for the Judicial Branch, but would require district and appellate judges to spend additional staff time researching and deciding cases. It is not possible to predict how complex and time-consuming these cases would be, however, and a precise fiscal effect cannot be estimated.

The KDOR reports HB 2040 would require changes to its computer processing system, which would result in programming costs of \$1,200 from the State General Fund. There would be no further fiscal or administrative effects on the Division of Vehicles.