

SENATE BILL No. 123

By Committee on Judiciary

2-1

1 AN ACT concerning driving; relating to driving under the influence of
2 alcohol or drugs; suspension or restriction of driving privileges;
3 amending K.S.A. 2016 Supp. 8-1014 and 8-1015 and repealing the
4 existing sections.

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

7 Section 1. K.S.A. 2016 Supp. 8-1014 is hereby amended to read as
8 follows: 8-1014. (a) Except as provided by subsection (e) and K.S.A. 8-
9 2,142, and amendments thereto, if a person refuses a test, the division,
10 pursuant to K.S.A. 8-1002, and amendments thereto, shall:

11 (1) On the person's first occurrence, suspend the person's driving
12 privileges for one year and at the end of the suspension, restrict the
13 person's driving privileges for two years to driving only a motor vehicle
14 equipped with an ignition interlock device;

15 (2) on the person's second occurrence, suspend the person's driving
16 privileges for one year and at the end of the suspension, restrict the
17 person's driving privileges for three years to driving only a motor vehicle
18 equipped with an ignition interlock device;

19 (3) on the person's third occurrence, suspend the person's driving
20 privileges for one year and at the end of the suspension, restrict the
21 person's driving privileges for four years to driving only a motor vehicle
22 equipped with an ignition interlock device;

23 (4) on the person's fourth occurrence, suspend the person's driving
24 privileges for one year and at the end of the suspension, restrict the
25 person's driving privileges for five years to driving only a motor vehicle
26 equipped with an ignition interlock device; and

27 (5) on the person's fifth or subsequent occurrence, suspend the
28 person's driving privileges for one year and at the end of the suspension,
29 restrict the person's driving privileges for 10 years to driving only a motor
30 vehicle equipped with an ignition interlock device.

31 (b) (1) Except as provided by subsections (b)(2) and (e) and K.S.A. 8-
32 2,142, and amendments thereto, if a person fails a test or has an alcohol or
33 drug-related conviction in this state, the division shall:

34 (A) On the person's first occurrence, suspend the person's driving
35 privileges for 30 days and at the end of the suspension, restrict the person's
36 driving privileges *or continue the suspension* as provided by ~~subsection (b)~~

1 of K.S.A. 8-1015(b), and amendments thereto;

2 (B) on the person's second occurrence, suspend the person's driving
3 privileges for one year and at the end of the suspension, restrict the
4 person's driving privileges for one year to driving only a motor vehicle
5 equipped with an ignition interlock device;

6 (C) on the person's third occurrence, suspend the person's driving
7 privileges for one year and at the end of the suspension, restrict the
8 person's driving privileges for two years to driving only a motor vehicle
9 equipped with an ignition interlock device;

10 (D) on the person's fourth occurrence, suspend the person's driving
11 privileges for one year and at the end of the suspension, restrict the
12 person's driving privileges for three years to driving only a motor vehicle
13 equipped with an ignition interlock device; and

14 (E) on the person's fifth or subsequent occurrence, suspend the
15 person's driving privileges for one year and at the end of the suspension,
16 restrict the person's driving privileges for 10 years to driving only a motor
17 vehicle equipped with an ignition interlock device.

18 (2) Except as provided by subsection (e) and K.S.A. 8-2,142, and
19 amendments thereto, if a person fails a test or has an alcohol or drug-
20 related conviction in this state and the person's blood or breath alcohol
21 concentration is .15 or greater, the division shall:

22 (A) On the person's first occurrence, suspend the person's driving
23 privileges for one year and at the end of the suspension, restrict the
24 person's driving privileges for one year to driving only a motor vehicle
25 equipped with an ignition interlock device;

26 (B) on the person's second occurrence, suspend the person's driving
27 privileges for one year and at the end of the suspension, restrict the
28 person's driving privileges for two years to driving only a motor vehicle
29 equipped with an ignition interlock device;

30 (C) on the person's third occurrence, suspend the person's driving
31 privileges for one year and at the end of the suspension restrict the person's
32 driving privileges for three years to driving only a motor vehicle equipped
33 with an ignition interlock device;

34 (D) on the person's fourth occurrence, suspend the person's driving
35 privileges for one year and at the end of the suspension, restrict the
36 person's driving privileges for four years to driving only a motor vehicle
37 equipped with an ignition interlock device; and

38 (E) on the person's fifth or subsequent occurrence, suspend the
39 person's driving privileges for one year and at the end of the suspension,
40 restrict the person's driving privileges for 10 years to driving only a motor
41 vehicle equipped with an ignition interlock device.

42 (3) Whenever a person's driving privileges have been restricted to
43 driving only a motor vehicle equipped with an ignition interlock device for

1 10 years under this section, such person may petition any district court for
2 relief from such restriction after five years of such restriction have been
3 served. The court shall consider, but not be limited to, whether: (A) Such
4 person's driving privileges have been restricted, suspended, revoked or
5 disqualified pursuant to another action by the division or a court; and (B)
6 such person proves installation, maintenance and use of an ignition
7 interlock device approved by the division throughout the five-year period.
8 If the court finds that the person's driving privileges should be restored,
9 then the court shall electronically report such order to the division. The
10 division, upon receiving such order, shall restore such person's driving
11 privileges, unless such person's driving privileges have been restricted,
12 suspended, revoked or disqualified pursuant to another action by the
13 division or a court.

14 (c) Except as provided by subsection (e) and K.S.A. 8-2,142, and
15 amendments thereto, if a person who is less than 21 years of age fails a test
16 or has an alcohol or drug-related conviction in this state, penalties shall be
17 imposed pursuant to subsection (b).

18 (d) Whenever the division is notified by a provider, as defined in
19 K.S.A. 8-1008, and amendments thereto, or a court that the person has
20 failed to follow any recommendation made by the provider or otherwise
21 ordered by a court for a conviction of a violation of K.S.A. 8-1567 or
22 K.S.A. 2016 Supp. 8-1025, and amendments thereto, the division shall
23 suspend the person's driving privileges until the division receives notice of
24 the person's completion of such recommendation.

25 (e) Except as provided in K.S.A. 8-2,142, and amendments thereto, if
26 a person's driving privileges are subject to suspension pursuant to this
27 section for a test refusal, test failure or alcohol or drug-related conviction
28 arising from the same arrest, the period of such suspension shall not
29 exceed the longest applicable period authorized by subsection (a) or (b),
30 and such suspension periods shall not be added together or otherwise
31 imposed consecutively. In addition, in determining the period of such
32 suspension as authorized by subsection (a) or (b), such person shall receive
33 credit for any period of time for which such person's driving privileges
34 were suspended while awaiting any hearing or final order authorized by
35 this act.

36 If a person's driving privileges are subject to restriction pursuant to this
37 section for a test failure or alcohol or drug-related conviction arising from
38 the same arrest, the restriction periods shall not be added together or
39 otherwise imposed consecutively. In addition, in determining the period of
40 restriction, the person shall receive credit for any period of suspension
41 imposed for a test refusal arising from the same arrest.

42 (f) If the division has taken action under subsection (a) for a test
43 refusal or under subsection (b) for a test failure and such action is stayed

1 pursuant to K.S.A. 8-259, and amendments thereto, or if temporary driving
2 privileges are issued pursuant to K.S.A. 8-1020, and amendments thereto,
3 the stay or temporary driving privileges shall not prevent the division from
4 taking the action required by subsection (b) for an alcohol or drug-related
5 conviction.

6 (g) The provisions of subsections (a), (b) and (c), as amended by ~~this~~
7 ~~act~~ *section 16 of chapter 172 of the 2012 Session Laws of Kansas* and
8 section 14 of chapter 105 of the 2011 Session Laws of Kansas, may be
9 applied retroactively only if requested by a person who has had such
10 person's driving privileges suspended or restricted pursuant to subsection
11 (a), (b) or (c) prior to such amendment. Such person may apply to the
12 division to have the penalties applied retroactively, as provided under
13 ~~subsection (g) of~~ K.S.A. 8-1015(g), and amendments thereto.

14 (h) When modifying penalties pursuant to subsection (g), the division
15 shall credit any suspension or revocation time in excess of one year which
16 was imposed and served prior to retroactive application of the provisions
17 of subsections (a), (b) and (c), as amended by ~~this act~~ *section 16 of chapter*
18 *172 of the 2012 Session Laws of Kansas* and section 14 of chapter 105 of
19 the 2011 Session Laws of Kansas, toward the required ignition interlock
20 restriction period imposed pursuant to the retroactive application of such
21 provisions if: (1) The person's driving record indicates no driving by the
22 person during the applicable suspension or revocation period; and (2) the
23 person completes a form prescribed by the division indicating that the
24 person did not drive during the applicable suspension or revocation period.

25 (i) As used in this section, "suspension" includes any period of
26 suspension and any period of restriction as provided in ~~subsection (a) of~~
27 K.S.A. 8-1015(a), and amendments thereto.

28 Sec. 2. K.S.A. 2016 Supp. 8-1015 is hereby amended to read as
29 follows: 8-1015. (a) (1) Except as provided in subsection (a)(2), whenever
30 a person's driving privileges have been suspended for one year as provided
31 in K.S.A. 8-1014(a), and amendments thereto, after 90 days of such
32 suspension, such person may apply to the division for such person's
33 driving privileges to be restricted for the remainder of the one-year
34 suspension period to driving only a motor vehicle equipped with an
35 ignition interlock device and only for the purposes of getting to and from:
36 Work, school or an alcohol treatment program; and the ignition interlock
37 provider for maintenance and downloading of data from the device.

38 (2) Whenever a person's driving privileges have been suspended for
39 one year as provided in K.S.A. 8-1014(a)(1), and amendments thereto,
40 after 90 days of such suspension, such person may apply to the division for
41 such person's driving privileges to be restricted for the remainder of the
42 one-year suspension period to driving only a motor vehicle equipped with
43 an ignition interlock device and only: Under the circumstances provided

1 by K.S.A. 8-292(a)(1), (2), (3) and (4), and amendments thereto; and for
2 the purpose of getting to and from the ignition interlock provider for
3 maintenance and downloading of data from the device.

4 (3) Except as provided in subsection (a)(4), whenever a person's
5 driving privileges have been suspended for one year as provided in K.S.A.
6 8-1014(b), and amendments thereto, after 45 days of such suspension, such
7 person may apply to the division for such person's driving privileges to be
8 restricted for the remainder of the one-year suspension period to driving
9 only a motor vehicle equipped with an ignition interlock device and only
10 for the purposes of getting to and from: Work, school or an alcohol
11 treatment program; and the ignition interlock provider for maintenance and
12 downloading of data from the device.

13 (4) Whenever a person's driving privileges have been suspended for
14 one year as provided in K.S.A. 8-1014(b)(2)(A), and amendments thereto,
15 after 45 days of such suspension, such person may apply to the division for
16 such person's driving privileges to be restricted for the remainder of the
17 one-year suspension period to driving only a motor vehicle equipped with
18 an ignition interlock device and only: Under the circumstances provided
19 by K.S.A. 8-292(a)(1), (2), (3) and (4), and amendments thereto; and for
20 the purpose of getting to and from the ignition interlock provider for
21 maintenance and downloading of data from the device.

22 (5) The division shall assess an application fee of \$100 for a person to
23 apply to modify the suspension to restricted ignition interlock status.

24 (6) The division shall approve the request for such restricted license
25 unless such person's driving privileges have been restricted, suspended,
26 revoked or disqualified pursuant to another action by the division or a
27 court. If the request is approved, upon receipt of proof of the installation of
28 such device, the division shall issue a copy of the order imposing such
29 restrictions on the person's driving privileges and such order shall be
30 carried by the person at any time the person is operating a motor vehicle
31 on the highways of this state. Except as provided in K.S.A. 8-1017, and
32 amendments thereto, if such person is convicted of a violation of the
33 restrictions, such person's driving privileges shall be suspended for an
34 additional year, in addition to any term of suspension or restriction as
35 provided in K.S.A. 8-1014(a) or (b), and amendments thereto.

36 (b) (1) Except as provided in subsection (b)(2), when a person has
37 completed the suspension pursuant to K.S.A. 8-1014(b)(1)(A), and
38 amendments thereto, the division shall *either: (A) Continue such*
39 *suspension for 180 days and, upon completion of such suspension,*
40 *reinstate the person's driving privileges, unless the person's driving*
41 *privileges have been restricted, suspended, revoked or disqualified*
42 *pursuant to another action by the division or a court; or (B) if the person*
43 *applies to the division, restrict the person's driving privileges for 180 days*

1 to driving only a motor vehicle equipped with an ignition interlock device.

2 (2) When a person has completed the suspension pursuant to K.S.A.
3 8-1014(b)(1)(A), and amendments thereto, the division shall restrict the
4 person's driving privileges for one year to driving only a motor vehicle
5 equipped with an ignition interlock device if the records maintained by the
6 division indicate that such person has previously: (A) Been convicted of a
7 violation of K.S.A. 8-1599, and amendments thereto; (B) been convicted
8 of a violation of K.S.A. 41-727, and amendments thereto; (C) been
9 convicted of any violations listed in K.S.A. 8-285(a), and amendments
10 thereto; (D) been convicted of three or more moving traffic violations
11 committed on separate occasions within a 12-month period; or (E) had
12 such person's driving privileges revoked, suspended, canceled or
13 withdrawn.

14 (c) Except as provided in subsection (b), when a person has
15 completed the suspension pursuant to K.S.A. 8-1014(a) or (b), and
16 amendments thereto, the division shall restrict the person's driving
17 privileges pursuant to K.S.A. 8-1014(a) or (b), and amendments thereto, to
18 driving only a motor vehicle equipped with an ignition interlock device.
19 Upon restricting a person's driving privileges pursuant to this subsection,
20 the division shall issue a copy of the order imposing the restrictions which
21 is required to be carried by the person at any time the person is operating a
22 motor vehicle on the highways of this state.

23 (d) Whenever an ignition interlock device is required by law, such
24 ignition interlock device shall be approved by the division and maintained
25 at the person's expense. Proof of the installation of such ignition interlock
26 device, for the entire period required by the applicable law, shall be
27 provided to the division before the person's driving privileges are fully
28 reinstated.

29 (e) Except as provided further, any person whose license is restricted
30 to operating only a motor vehicle with an ignition interlock device
31 installed may operate an employer's vehicle without an ignition interlock
32 device installed during normal business activities, provided that the person
33 does not partly or entirely own or control the employer's vehicle or
34 business. The provisions of this subsection shall not apply to any person
35 whose driving privileges have been restricted for the remainder of the one-
36 year suspension period as provided in subsection (a)(1) or (a)(3).

37 (f) Upon expiration of the period of time for which restrictions are
38 imposed pursuant to this section, the licensee may apply to the division for
39 the return of any license previously surrendered by the licensee. If the
40 license has expired, the person may apply to the division for a new license,
41 which shall be issued by the division upon payment of the proper fee and
42 satisfaction of the other conditions established by law, unless the person's
43 driving privileges have been suspended or revoked prior to expiration.

1 (g) Any person who has had the person's driving privileges
2 suspended, restricted or revoked pursuant to K.S.A. 8-1014(a), (b) or (c),
3 prior to the amendments by section 16 of chapter 172 of the 2012 Session
4 Laws of Kansas and section 14 of chapter 105 of the 2011 Session Laws of
5 Kansas, may apply to the division to have the suspension, restriction or
6 revocation penalties modified in conformity with the provisions of K.S.A.
7 8-1014(a), (b) or (c), and amendments thereto. The division shall assess an
8 application fee of \$100 for a person to apply to modify the suspension,
9 restriction or revocation penalties previously issued. The division shall
10 modify the suspension, restriction or revocation penalties, unless such
11 person's driving privileges have been restricted, suspended, revoked or
12 disqualified pursuant to another action by the division or a court.

13 (h) The division shall remit all application fees collected pursuant to
14 subsections (a) and (g) to the state treasurer in accordance with the
15 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
16 each such remittance, the state treasurer shall deposit the entire amount in
17 the state treasury and shall credit such moneys to the division of vehicles
18 operating fund until an aggregate amount of \$100,000 is credited to the
19 division of vehicles operating fund each fiscal year. On and after an
20 aggregate amount of \$100,000 is credited to such fund each fiscal year, the
21 entire amount of such remittance shall be credited to the community
22 corrections supervision fund created by K.S.A. 2016 Supp. 75-52,113, and
23 amendments thereto. The application fee established in this section shall
24 be the only fee collected or moneys in the nature of a fee collected for such
25 application. Such fee shall only be established by an act of the legislature
26 and no other authority is established by law or otherwise to collect a fee.

27 Sec. 3. K.S.A. 2016 Supp. 8-1014 and 8-1015 are hereby repealed.

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