

SESSION OF 2018

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR HOUSE
BILL NO. 2040**

As Amended by Senate Committee on
Transportation

Brief*

Sub. for HB 2040, as amended, would add provisions to the Uniform Act Regulating Traffic on Highways related to negligent driving and the fine for improper passing of a school bus.

The bill would prohibit a person from operating or halting any vehicle in a manner as to indicate a careless or heedless disregard for the right or the safety of others or inattentively in such a manner as to endanger, or be likely to endanger, any person or property. The fine for a negligent driving violation would be \$45.

The bill would increase the fine for improper passing of a school bus for any subsequent violation within five years to \$750 for a second violation and to \$1,000 for a third or subsequent violation. The fine in continuing law for improper passing of a school bus is \$315.

Background

The bill, as amended, contains the provisions of Sub. for HB 2040 and SB 441.

*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>

Sub. for HB 2040 (Improper Passing of a School Bus)

As introduced, HB 2040 would have authorized a school board to equip school buses with a video recording device to enforce current law: KSA 2017 Supp. 8-1556 requires a driver to stop and prohibits a driver of a vehicle meeting or overtaking from either direction any school bus from proceeding when the bus is flashing red lights (school bus stop sign law). The bill, as introduced, also would have included the fine increases in the substitute bill.

The House Committee on Transportation introduced the bill at the request of Representative Highland. On January 26, 2017, the House Committee held a hearing on the bill. Representative Highland and the Transportation Director for USD 378 Riley County Schools testified in support of the bill. The proponents reported they had witnessed violations putting children at risk, a driver violating current law is cited now only if a law enforcement officer witnesses the violation, and 16 other states have bus camera laws and 3 other states were considering them. The Kansas Highway Patrol (KHP) provided written-only proponent testimony. A representative of the League of Kansas Municipalities (LKM) appeared as an opponent to certain portions of the bill, relating to costs for the maintaining and storing of evidence and for delivering the citation to the vehicle owner. No other testimony was provided.

The House Committee on Transportation amended the bill regarding delivery of the citation.

On February 22, 2017, the House Committee of the Whole referred the bill to the House Committee on Judiciary. On March 14, 2017, the House Committee on Judiciary held a hearing on due process issues in the bill. Representative Highland testified in support of the bill. A representative of LKM testified as an opponent to the provisions of the bill it had opposed before the House Committee on Transportation.

The House Committee on Judiciary further amended the bill without recommendation by:

- Removing a definition of “owner” that would have been added by the bill, as introduced;
- Adding the provisions regarding *prima facie* evidence and a rebuttable presumption;
- Removing a provision that would have been added by the bill, as introduced, allowing a school district to enter into an intergovernmental agreement to offset expenses involved with the video recording devices contemplated by the bill; and
- Moving and expanding the required contents of a citation.

In 2018, the bill was rereferred to the House Committee on Transportation, which amended the bill to remove sections regarding camera enforcement and retain only provisions regarding fines. It also adopted technical amendments and recommended the amended contents be placed into a substitute bill.

On March 13, 2018, the Senate Committee on Transportation held a hearing on the bill. Proponent testimony was provided by Representative Highland; the Transportation Director of USD 378, Riley County; and a representative of the Kansas Association of Chiefs of Police, the Kansas Sheriffs’ Association, and the Kansas Peace Officers Association. Written-only proponent testimony was provided by representatives of the LKM and the KHP. No other testimony was provided.

The Senate Committee amended the bill to add the contents of SB 441 regarding negligent driving.

According to the fiscal note prepared in 2017 by the Division of the Budget on the bill, as introduced, enactment of Sub. for HB 2040 could have these effects:

- According to the Office of Judicial Administration (OJA), the bill could increase the number of cases filed, which could increase time spent by staff but also result in collection of docket fees. However, it is not possible to predict the number or complexity of the cases and therefore a precise fiscal effect cannot be determined;
- The Kansas Department of Transportation reported the bill could result in additional federal reporting on automated enforcement, but any fiscal effect to agency operations would be negligible [*Note: This concern would not be applicable to the substitute bill.*]; and
- The Kansas Department of Revenue indicated the bill would require a change to motor vehicle reports and to the driver's license system, at a total cost of \$1,401 in FY 2018.

Any fiscal effect of Sub. for HB 2040 is not reflected in *The FY 2019 Governor's Budget Report*.

SB 441 (Negligent Driving)

The bill was introduced by the Senate Committee on Ways and Means and referred to the Senate Committee on Transportation. In the Senate Committee hearing, a representative of the Kaw Valley Bicycle Club and a representative of the Kansas Association of Chiefs of Police, Kansas Sheriffs' Association, and Kansas Peace Officers Association offered proponent testimony. Written-only proponent testimony was provided by a representative of the Johnson County Sheriff's Office. No neutral or opponent testimony was provided.

The provisions of SB 441 are the same as those of SB 274, as amended by the Senate Committee on Transportation. It was noted those provisions would reflect language upheld by the Kansas Court of Appeals in 2009.

According to the fiscal note prepared by the Division of the Budget, SB 441 would have the potential for increasing litigation in the courts because of the creation of a new traffic violation. The OJA indicates any increased litigation in the courts would have a fiscal effect on the operations of the court system. However, it is not possible to predict the number of additional court cases that would arise. Therefore, a precise fiscal effect cannot be determined, but it would most likely be accommodated within the existing schedule of court cases and would not require additional resources. Any fiscal effect associated with enactment of SB 441 is not reflected in *The FY 2019 Governor's Budget Report*.