

HOUSE BILL No. 2629

By Committee on Transportation

2-8

Proposed Amendments to HB 2629
For House Committee on Transportation
February 21, 2022
Prepared by: Office of Revisor of Statutes

1 AN ACT concerning driver's licenses; relating to habitual violators;
2 removing mandatory jail time for a habitual violator convicted of
3 driving while the driver's license of the person is canceled, suspended
4 or revoked, amending K.S.A. 2021 Supp. 8-262 and 8-287 and
5 repealing the existing sections.

for nonpayment of fines

8-285

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

Strike section 1

7 Section 1, K.S.A. 2021 Supp. 8-262 is hereby amended to read as
8 follows: 8-262. (a) (1) Any person who drives a motor vehicle on any
9 highway of this state at a time when such person's privilege to obtain
10 a driver's license is suspended or revoked or while such person's privilege to obtain
11 a driver's license is suspended or revoked pursuant to K.S.A. 8-252a, and
12 amendments thereto, shall be guilty of a class-B nonperson misdemeanor
13 on the first conviction and a class-A nonperson misdemeanor on the second
14 or subsequent conviction.

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

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

22 (4) Except as otherwise provided by subsection (e), if a person (A) is
23 convicted of a violation of this section, committed while the person's
24 privilege to drive or privilege to obtain a driver's license was suspended or
25 revoked for a violation of K.S.A. 8-2,144 or 8-1567, and amendments
26 thereto, or any ordinance of any city or resolution of any county or a law
27 of another state, which ordinance or resolution or law prohibits the acts
28 prohibited by those statutes; and (B) is or has been also convicted of a
29 violation of K.S.A. 8-2,144 or 8-1567, and amendments thereto, or any
30 ordinance of any city or resolution of any county or law of another state,
31 which 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

1 person shall be in addition to such a term of imprisonment.

2 (b) (1) ~~Except as provided by subsection (b)(2), the division, upon~~
3 ~~receiving a record of the conviction of any person under this section, or~~
4 ~~any ordinance of any city or resolution of any county or a law of another~~
5 ~~state which is in substantial conformity with this section, upon a charge of~~
6 ~~driving a vehicle while the license of such person is revoked or suspended,~~
7 ~~shall extend the period of such suspension or revocation for an additional~~
8 ~~period of 90 days.~~

9 (2) ~~For any person found guilty of driving a vehicle while the license~~
10 ~~of such person is suspended for violating K.S.A. 8-2110, and amendments~~
11 ~~thereto, such offense shall not extend the additional period of suspension~~
12 ~~pursuant to subsection (b)(1).~~

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

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

21 (B) ~~was convicted of violating the provisions of K.S.A. 40-3104, and~~
22 ~~amendments thereto, relating to motor vehicle liability insurance coverage;~~
23 ~~or~~

24 (C) ~~was convicted of vehicular homicide, K.S.A. 21-3405, prior to its~~
25 ~~repeal, or K.S.A. 2021 Supp. 21-5406, and amendments thereto,~~
26 ~~involuntary manslaughter while driving under the influence of alcohol or~~
27 ~~drugs, K.S.A. 21-3442, prior to its repeal, or involuntary manslaughter as~~
28 ~~defined in K.S.A. 2021 Supp. 21-5405(a)(3) and (a)(5), and amendments~~
29 ~~thereto, or any other murder or manslaughter crime resulting from the~~
30 ~~operation of a motor vehicle; or~~

31 (D) ~~was convicted of being a habitual violator, K.S.A. 8-297, and~~
32 ~~amendments thereto.~~

33 (2) ~~The person convicted shall not be eligible for release on~~
34 ~~probation, suspension or reduction of sentence or parole until the person~~
35 ~~has served at least 90 days' imprisonment. The 90 days' imprisonment~~
36 ~~mandated by this subsection may be served in a work-release program only~~
37 ~~after such person has served 48 consecutive hours' imprisonment, provided~~
38 ~~such work-release program requires such person to return to confinement~~
39 ~~at the end of each day in the work-release program. The court may place~~
40 ~~the person convicted under a house arrest program pursuant to K.S.A.~~
41 ~~2021 Supp. 21-6609, and amendments thereto, or any municipal ordinance~~
42 ~~to serve the remainder of the minimum sentence only after such person has~~
43 ~~served 48 consecutive hours' imprisonment.~~

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

Strike section 2

~~Sec. 2. K.S.A. 2021 Supp. 8-287 is hereby amended to read as follows: 8-287. Except as allowed under subsection (d)(4) of K.S.A. 8-235(d)(4), and amendments thereto, operation of a motor vehicle in this state while one's driving privileges are revoked pursuant to K.S.A. 8-286, and amendments thereto, is a class A nonperson misdemeanor. The person found guilty of 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. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment provided such person has served 48 consecutive hours' imprisonment to confinement at the end of each day in the work release program. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2021 Supp. 21-6609, and amendments thereto, or any municipal ordinance to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment.~~

Section 1. Insert Attachment I

~~Sec. 3. K.S.A. 2021 Supp. 8-262 and 8-287 are hereby repealed.~~

8-285 is

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

January 1, 2023, and

Section 1. K.S.A. 2021 Supp. 8-285 is hereby amended to read as follows: 8-285. (a) Except as otherwise provided in this section, as used in this act, the words and phrases defined in K.S.A. 8-234a, and amendments thereto, shall have the meanings ascribed to them therein. The term "habitual violator" means any resident or nonresident person who, within the immediately preceding five years, has been convicted in this or any other state:

~~(a)~~(1) Three or more times of:

~~(1)~~(A) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its repeal, or K.S.A. 2021 Supp. 21-5406, and amendments thereto, or as prohibited by any ordinance of any city in this state, any resolution of any county in this state or any law of another state which is in substantial conformity with that statute;

~~(2)~~(B) violating K.S.A. 8-1567, and amendments thereto, or violating an ordinance of any city in this state, any resolution of any county in this state or any law of another state, which ordinance, resolution or law declares to be unlawful the acts prohibited by that statute;

~~(3)~~(C) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262, and amendments thereto, or while such person's privilege to obtain a driver's license is suspended or revoked pursuant to K.S.A. 8-252a, and amendments thereto, or, as prohibited by any ordinance of any city in this state, any resolution of any county in this state or any law of another state which is in substantial conformity with those statutes, except when such person's privilege to operate a motor vehicle or obtain a driver's license was canceled, suspended or revoked solely for failure to comply with a traffic citation pursuant to K.S.A. 8-2110, and amendments thereto;

~~(4)~~(D) perjury resulting from a violation of K.S.A. 8-261a, and amendments thereto, or resulting from the violation of a law of another state which is in substantial conformity with that statute;

~~(5)~~(E) violating the provisions of the fifth clause of K.S.A. 8-142, and amendments thereto, relating to fraudulent applications, or violating the provisions of a law of another state which is in substantial conformity with that statute;

~~(6)~~(F) any crime punishable as a felony, if a motor vehicle was used in the perpetration of the crime;

~~(7)~~(G) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602 through 8-1604, and amendments thereto, or required by any ordinance of any city in this state, any resolution of any county in this state or a law of another state which is in substantial conformity with those statutes; or

~~(8)~~(H) violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage, or an ordinance of any city in this state or a resolution of any county in this state which is in substantial conformity with such statute.

~~(b)~~(2) Three or more times, either singly or in combination, of any of the offenses enumerated in this subsection ~~(a)~~.

(b) For the purpose of subsection ~~(a)~~(2)(a)(I)(B), in addition to the definition of "conviction" otherwise provided by law, conviction includes, but is not limited to, a diversion agreement entered into in lieu of further criminal proceedings, or a plea of nolo contendere, on a complaint, indictment, information, citation or notice to appear alleging a violation of K.S.A. 8-1567, and amendments thereto, or an ordinance of a city in this state, a resolution of a county in this state or law of another state, which ordinance or law prohibits the acts prohibited by those statutes.