

*As Amended by Senate Committee*

*As Amended by House Committee*

*Session of 2021*

**HOUSE BILL No. 2377**

By Committee on Judiciary

2-12

Proposed Amendments to HB 2377  
Add SB533

Senate Committee on Judiciary  
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Office of Revisor of Statutes

1 AN ACT concerning driving; relating to driving under the influence;  
2 authorizing reinstatement of a driver's license for certain persons with  
3 an ignition interlock device restriction; removing the motorized bicycle  
4 license option for persons whose driving privileges are suspended for a  
5 DUI-related offense; allowing certain persons disqualified from driving  
6 a commercial motor vehicle to have commercial driving privileges  
7 restored; modifying the criminal penalties for driving a commercial  
8 motor vehicle under the influence and driving under the influence,  
9 authorizing courts to waive certain fines and clarifying that amendment  
10 or dismissal of certain charges is permitted; allowing persons with  
11 suspended driving privileges to seek driving privileges restricted to  
12 driving only a motor vehicle equipped with an ignition interlock device  
13 earlier in the suspension period; requiring persons with an ignition  
14 interlock device restriction to complete the ignition interlock device  
15 program before driving privileges are fully reinstated; requiring the  
16 secretary of revenue to adopt certain rules and regulations related to  
17 ignition interlock devices; providing for reduced ignition interlock  
18 device program costs for certain persons; reducing the restricted driving  
19 privileges period for certain persons less than 21 years of age;  
20 clarifying that a city attorney or a county or district attorney shall not  
21 enter into a diversion agreement for certain traffic violations if the  
22 defendant is a commercial driver's license holder; amending K.S.A. 8-  
23 1016 and K.S.A. 2020 Supp. 8-235, 8-2,142, 8-2,144, ~~8-1015~~, 8-1567,  
24 8-1567a, 12-4415, **21-6604**, **21-6804** and 22-2908 and repealing the  
25 existing sections.  
26

relating to commercial drivers' licenses; increasing the  
period of disqualification for certain offenses and

prohibiting prosecuting attorneys from concealing certain  
traffic violations from the CDLIS driver report;

8-2,150,

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

28 New Section 1. (a) Any person whose license is restricted to  
29 operating only a motor vehicle with an ignition interlock device installed  
30 and who meets the requirements of subsection (b) may request  
31 reinstatement of such person's driver's license by submitting a request to  
32 the division in a form and manner prescribed by the division.

33 (b) The division shall approve the request for reinstatement of the  
34 person's driver's license if the division determines all the following

1 a class C license for the operation of motorized bicycles, in accordance  
2 with paragraph (2), in which case the division shall issue such person a  
3 class C license, which shall clearly indicate that such license is valid only  
4 for the operation of motorized bicycles. As used in this subsection,  
5 "motorized bicycle" shall have the meaning ascribed to it in K.S.A. 8-126,  
6 and amendments thereto.

7 ~~(e) All moneys received under subsection (d) from the nonrefundable~~  
8 ~~application fee shall be applied by the division of vehicles for the~~  
9 ~~additional administrative costs to implement restricted driving privileges.~~  
10 ~~The division shall remit all restricted driving privilege application fees to~~  
11 ~~the state treasurer in accordance with the provisions of K.S.A. 75-4215,~~  
12 ~~and amendments thereto. Upon receipt of each such remittance, the state~~  
13 ~~treasurer shall deposit the entire amount in the state treasury to the credit~~  
14 ~~of the division of vehicles operating fund.~~

15 ~~(f) Violation of this section shall constitute~~ is a class B *nonperson*  
16 misdemeanor.

17 Sec. 3. K.S.A. 2020 Supp. 8-2,142 is hereby amended to read as  
18 follows: 8-2,142. (a) A person is disqualified from driving a commercial  
19 motor vehicle for a period of not less than one year upon a first occurrence  
20 of any one of the following:

- 21 (1) While operating a commercial motor vehicle:
  - 22 (A) The person is convicted of violating K.S.A. 8-2,144, and
  - 23 amendments thereto;
  - 24 (B) the person is convicted of violating K.S.A. 8-2,132(b), and
  - 25 amendments thereto;
  - 26 (C) the person is convicted of causing a fatality through the negligent
  - 27 operation of a commercial motor vehicle;
  - 28 (D) the person's test refusal or test failure, as defined in subsection
  - 29 (m); or
  - 30 (E) the person is convicted of a violation identified in subsection (a)
  - 31 (2)(A); or

- 32 (2) while operating a noncommercial motor vehicle:
  - 33 (A) The person is convicted of a violation of K.S.A. 8-1567, and
  - 34 amendments thereto, or of a violation of an ordinance of any city in this
  - 35 state, a resolution of any county in this state or any law of another state,
  - 36 which ordinance or law declares to be unlawful the acts prohibited by that
  - 37 statute; or
  - 38 (B) the person's test refusal or test failure, as defined in K.S.A. 8-
  - 39 1013, and amendments thereto; or
  - 40 (3) while operating any motor vehicle:
    - 41 (A) The person is convicted of leaving the scene of an accident; or
    - 42 (B) the person is convicted of a felony, other than a felony described
    - 43 in subsection (e), while using a motor vehicle to commit such felony.

1 (b) If any offenses, test refusal or test failure specified in subsection  
2 (a) occurred in a commercial motor vehicle while transporting a hazardous  
3 material required to be placarded, the person is disqualified for a period of  
4 not less than three years.

5 (c) A person shall be disqualified for life upon the second or a  
6 subsequent occurrence of any offense, test refusal or test failure specified  
7 in subsection (a), or any combination thereof, arising from two or more  
8 separate incidents *occurring on or after July 1, 2003*.

9 ~~(d) (1) The secretary of revenue may adopt rules and regulations~~  
10 ~~establishing guidelines, including conditions, under which a~~  
11 ~~disqualification for life under subsection (c) may be reduced to a period of~~  
12 ~~not less than 10 years.~~*Any person disqualified for life under subsection (c)*  
13 *who seeks to have commercial driving privileges restored after such*  
14 *person has been disqualified for at least 10 years shall apply in writing to*  
15 *the division.*

16 (2) *The division shall restore a person's commercial driving*  
17 *privileges if the division determines:*

18 (A) *None of the occurrences that led to the person's lifetime*  
19 *disqualification under subsection (c) included violations described in*  
20 *subsection (a)(1)(A) or (a)(1)(E);*

21 (B) *the person has had no occurrence of any offense, test refusal or*  
22 *test failure specified in subsection (a) during the 10-year period preceding*  
23 *the application;*

24 (C) *the person has had no alcohol or drug related convictions as*  
25 *defined in K.S.A. 8-2,128, and amendments thereto, in Kansas or any*  
26 *other jurisdiction during the 10-year period preceding the application;*

27 (D) *the person has no pending alcohol or drug related criminal*  
28 *charges in Kansas or any other jurisdiction;*

29 (E) *the person has had no convictions for violations that occurred*  
30 *while operating a commercial motor vehicle in Kansas or any other*  
31 *jurisdiction during the 10-year period preceding the application;*

32 (F) *the person has successfully completed an alcohol or drug*  
33 *treatment program, or a comparable program, that meets or exceeds the*  
34 *minimum standards approved by the Kansas department for aging and*  
35 *disability services if any of the disqualifying offenses were drug or alcohol*  
36 *related;*

37 (G) *the person is no longer a threat to the public safety of this state.*  
38 *The division may request, and the person shall provide, any additional*  
39 *information or documentation which the division deems necessary to*  
40 *determine the person's fitness for relicensure;*

41 (H) *the person is otherwise eligible for licensure; and*

42 (I) *the person has not previously been restored to commercial motor*  
43 *vehicle privileges following a prior 10-year-minimum disqualification.*

- 1       (3) *For purposes of verifying a person's prior 10-year alcohol and*  
2 *drug history, the person shall provide a copy of the person's closed*  
3 *criminal history from any jurisdiction to the division.*
- 4       (4) *If the division finds the person is eligible for restoration to*  
5 *commercial driving status, such person shall complete the written and*  
6 *driving skills examinations as specified in K.S.A. 8-2,133, and*  
7 *amendments thereto, before a commercial driver license is issued.*
- 8       (5) *If the person is found ineligible for restoration of commercial*  
9 *driving privileges, the division shall notify the person of such findings by*  
10 *certified mail and continue the denial of commercial driving privilege*  
11 *until such ineligibility has been disproven to the division's satisfaction.*
- 12       (6) *Any person who previously had such person's commercial motor*  
13 *vehicle privileges restored pursuant to this statute shall not be eligible to*  
14 *apply for restoration if such person receives another lifetime*  
15 *disqualification.*
- 16       (7) *Any person who is aggrieved by the decision of the division may*  
17 *appeal for review in accordance with the Kansas judicial review act,*  
18 *K.S.A. 77-601 et seq., and amendments thereto.*
- 19       (8) *The secretary of revenue shall adopt rules and regulations*  
20 *necessary to administer the provisions of this subsection **prior to March***  
21 ***1, 2022.***
- 22       (e) (1) *A person is disqualified from driving a commercial motor*  
23 *vehicle for life who uses a commercial motor vehicle or noncommercial*  
24 *motor vehicle in the commission of any felony involving the manufacture,*  
25 *distribution or dispensing of a controlled substance, or possession with*  
26 *intent to manufacture, distribute or dispense a controlled substance.*
- 27       (2) *A person is disqualified from driving a commercial motor vehicle*  
28 *for life who uses a commercial motor vehicle in the commission of a felony*  
29 *involving an act or practice of severe forms of trafficking in persons. The*  
30 *term "severe forms of trafficking in persons" means:*
- 31       (A) *Sex trafficking in which a commercial sex act is induced by force,*  
32 *fraud or coercion, or in which the person induced to perform such act has*  
33 *not attained 18 years of age; or*
- 34       (B) *the recruitment, harboring, transportation, provision or obtaining*  
35 *of a person for labor or services, through the use of force, fraud or*  
36 *coercion for the purpose of subjection to involuntary servitude, peonage,*  
37 *debt bondage or slavery.*
- 38       (f) *A person is disqualified from driving a commercial motor vehicle*  
39 *for a period of not less than 60 days if convicted of two serious traffic*  
40 *violations, or 120 days if convicted of three or more serious traffic*  
41 *violations, committed in a commercial motor vehicle arising from separate*  
42 *incidents occurring within a three-year period. Any disqualification period*  
43 *under this paragraph shall be in addition to any other previous period of*

1 disqualification. The beginning date for any three-year period within a ten-  
2 year period, required by this subsection, shall be the issuance date of the  
3 citation which resulted in a conviction.

4 (g) A person is disqualified from driving a commercial motor vehicle  
5 for a period of not less than 60 days if convicted of two serious traffic  
6 violations, or 120 days if convicted of three or more serious traffic  
7 violations, committed in a noncommercial motor vehicle arising from  
8 separate incidents occurring within a three-year period, if such convictions  
9 result in the revocation, cancellation or suspension of the person's driving  
10 privileges.

11 (h) (1) A person who is convicted of operating a commercial motor  
12 vehicle in violation of an out-of-service order shall be disqualified from  
13 driving a commercial motor vehicle for a period of not less than:

One hundred and eighty

14 (A) ~~Ninety~~ days nor more than one year, if the driver is convicted of a  
15 first violation of an out-of-service order;

two years

16 (B) ~~one year~~ nor more than five years if the person has one prior  
17 conviction for violating an out-of-service order in a separate incident and  
18 such prior offense was committed within the 10 years immediately  
19 preceding the date of the present violation; or

20 (C) three years nor more than five years if the person has two or more  
21 prior convictions for violating out-of-service orders in separate incidents  
22 and such prior offenses were committed within the 10 years immediately  
23 preceding the date of the present violation.

24 (2) A person who is convicted of operating a commercial motor  
25 vehicle in violation of an out-of-service order while transporting a  
26 hazardous material required to be placarded under 49 U.S.C. § 5101 et seq.  
27 or while operating a motor vehicle designed to transport more than 15  
28 passengers, including the driver, shall be disqualified from driving a  
29 commercial motor vehicle for a period of not less than:

30 (A) One hundred and eighty days nor more than two years if the  
31 driver is convicted of a first violation of an out-of-service order; or

32 (B) three years nor more than five years if the person has a prior  
33 conviction for violating an out-of-service order in a separate incident and  
34 such prior offense was committed within the 10 years immediately  
35 preceding the date of the present violation.

36 (i) (1) A person who is convicted of operating a commercial motor  
37 vehicle in violation of a federal, state or local law or regulation pertaining  
38 to one of the following six offenses at a railroad-highway grade crossing  
39 shall be disqualified from driving a commercial motor vehicle for the  
40 period of time specified in paragraph (2) *for persons*:

41 (A) ~~For persons~~ Who are not required to always stop, failing to slow  
42 down and check that the tracks are clear of an approaching train;

43 (B) ~~for persons~~ who are not required to always stop, failing to stop

- 1 before reaching the crossing, if the tracks are not clear;
- 2 (C) ~~for persons~~ who are always required to stop, failing to stop before
- 3 driving onto the crossing;
- 4 (D) ~~for all persons~~ failing to have sufficient space to drive completely
- 5 through the crossing without stopping;
- 6 (E) ~~for all persons~~ failing to obey a traffic control device or the
- 7 directions of an enforcement official at the crossing; or
- 8 (F) ~~for all persons~~ failing to negotiate a crossing because of
- 9 insufficient undercarriage clearance.
- 10 (2) A driver shall be disqualified from driving a commercial motor
- 11 vehicle for not less than:
- 12 (A) Sixty days if the driver is convicted of a first violation of a
- 13 railroad-highway grade crossing violation;
- 14 (B) one hundred and twenty days if, during any three-year period, the
- 15 driver is convicted of a second railroad-highway grade crossing violation
- 16 in separate incidents; or
- 17 (C) one year if, during any three-year period, the driver is convicted
- 18 of a third or subsequent railroad-highway grade crossing violation in
- 19 separate incidents.
- 20 (j) After suspending, revoking or canceling a commercial driver's
- 21 license, the division shall update its records to reflect that action within 10
- 22 days. After suspending, revoking or canceling a nonresident commercial
- 23 driver's privileges, the division shall notify the licensing authority of the
- 24 state which issued the commercial driver's license or nonresident
- 25 commercial driver's license within 10 days. The notification shall include
- 26 both the disqualification and the violation that resulted in the
- 27 disqualification, suspension, revocation or cancellation.
- 28 (k) Upon receiving notification from the licensing authority of
- 29 another state, that it has disqualified a commercial driver's license holder
- 30 licensed by this state, or has suspended, revoked or canceled such
- 31 commercial driver's license holder's commercial driver's license, the
- 32 division shall record such notification and the information such
- 33 notification provides on the driver's record.
- 34 (l) Upon suspension, revocation, cancellation or disqualification of a
- 35 commercial driver's license under this act, the license shall be immediately
- 36 surrendered to the division if still in the licensee's possession. If otherwise
- 37 eligible, and upon payment of the required fees, the licensee may be issued
- 38 a noncommercial driver's license for the period of suspension, revocation,
- 39 cancellation or disqualification of the commercial driver's license under
- 40 the same identifier number.
- 41 (m) As used in this section, "test refusal" means a person's refusal to
- 42 submit to and complete a test requested pursuant to K.S.A. 8-2,145, and
- 43 amendments thereto; "test failure" means a person's submission to and

1 completion of a test which determines that the person's alcohol  
2 concentration is .04 or greater, pursuant to K.S.A. 8-2,145, and  
3 amendments thereto.

4 *(n) If a person is disqualified for life under on subsection (c), and at*  
5 *least one of the disqualifying incidents occurred prior to July 1, 2003, the*  
6 *person may apply to the secretary of revenue for review of the incidents*  
7 *and modification of the disqualification. The secretary shall adopt rules*  
8 *and regulations establishing guidelines, including conditions, to*  
9 *administer this subsection **prior to March 1, 2022.***

10 Sec. 4. K.S.A. 2020 Supp. 8-2,144 is hereby amended to read as  
11 follows: 8-2,144. (a) Driving a commercial motor vehicle under the  
12 influence is operating or attempting to operate any commercial motor  
13 vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, within this  
14 state while:

15 (1) The alcohol concentration in the person's blood or breath, as  
16 shown by any competent evidence, including other competent evidence, as  
17 defined in K.S.A. 8-1013(f)(1), and amendments thereto, is 0.04 or more;

18 (2) the alcohol concentration in the person's blood or breath, as  
19 measured within three hours of the time of driving a commercial motor  
20 vehicle, is 0.04 or more; or

21 (3) committing a violation of K.S.A. 8-1567(a), and amendments  
22 thereto, or the ordinance of a city or resolution of a county which prohibits  
23 any of the acts prohibited thereunder or is otherwise comparable.

24 (b) (1) Driving a commercial motor vehicle under the influence is:

25 (A) On a first conviction, a class B, nonperson misdemeanor. The  
26 person convicted shall be sentenced to not less than 48 consecutive hours  
27 nor more than six months' imprisonment, or in the court's discretion, 100  
28 hours of public service, and fined not less than \$750 nor more than \$1,000.  
29 ~~The person convicted shall serve at least 48 consecutive hours'~~  
30 ~~imprisonment or 100 hours of public service either before or as a condition~~  
31 ~~of any grant of probation, suspension or reduction of sentence or parole or~~  
32 ~~other release;~~

33 (B) on a second conviction, a class A, nonperson misdemeanor. The  
34 person convicted shall be sentenced to not less than 90 days nor more than  
35 one year's imprisonment and fined not less than \$1,250 nor more than  
36 \$1,750. ~~The person convicted shall serve at least five consecutive days'~~  
37 ~~imprisonment before the person is granted probation, suspension or~~  
38 ~~reduction of sentence or parole or is otherwise released. The five days'~~  
39 ~~imprisonment mandated by this subsection may be served in a work~~  
40 ~~release program only after such person has served 48 consecutive hours'~~  
41 ~~imprisonment, provided such work release program requires such person~~  
42 ~~to return to confinement at the end of each day in the work release~~  
43 ~~program. The person convicted, if placed into a work release program,~~

1 (3) "conviction" includes:  
2 (A) Entering into a diversion agreement in lieu of further criminal  
3 proceedings on a complaint alleging a violation of a crime described in  
4 subsection (n)(2); and  
5 (B) conviction of a violation of an ordinance of a city in this state, a  
6 resolution of a county in this state or any law of another jurisdiction that  
7 would constitute an offense that is comparable to the offense described in  
8 subsection (n)(1) or (n)(2);  
9 (4) it is irrelevant whether an offense occurred before or after  
10 conviction for a previous offense; and  
11 (5) multiple convictions of any crime described in subsection (n)(1)  
12 or (n)(2) arising from the same arrest shall only be counted as one  
13 conviction.  
14 (o) For the purposes of determining whether an offense is  
15 comparable, the following shall be considered:  
16 (1) The name of the out-of-jurisdiction offense;  
17 (2) the elements of the out-of-jurisdiction offense; and  
18 (3) whether the out-of-jurisdiction offense prohibits similar conduct  
19 to the conduct prohibited by the closest approximate Kansas offense.  
20 (p) For the purpose of this section:  
21 (1) "Alcohol concentration" means the number of grams of alcohol  
22 per 100 milliliters of blood or per 210 liters of breath;  
23 (2) "imprisonment" ~~shall include~~ *includes* any restrained environment  
24 in which the court and law enforcement agency intend to retain custody  
25 and control of a defendant and such environment has been approved by the  
26 board of county commissioners or the governing body of a city; and  
27 (3) "drug" includes toxic vapors as such term is defined in K.S.A.  
28 2020 Supp. 21-5712, and amendments thereto.  
29 (q) On and after July 1, 2011, the amount of \$250 from each fine  
30 imposed pursuant to this section shall be remitted by the clerk of the  
31 district court to the state treasurer in accordance with the provisions of  
32 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such  
33 remittance, the state treasurer shall credit the entire amount to the  
34 community corrections supervision fund established by K.S.A. 75-52,113,  
35 and amendments thereto.  
36 ✓ Sec. 5. K.S.A. 2020 Supp. 8-1015 is hereby amended to read as  
37 follows: 8-1015. (a) (1) ~~Except as provided in subsection (a)(2); Whenever~~  
38 ~~a person's driving privileges have been suspended for one year as provided~~  
39 ~~in K.S.A. 8-1014(a), and amendments thereto, after 90 days of such~~  
40 ~~suspension, such person may apply to the division for such person's~~  
41 ~~driving privileges to be restricted for the remainder of the one-year~~  
42 ~~suspension period to driving only a motor vehicle equipped with an~~  
43 ~~ignition interlock device and only for the purposes of getting to and from:~~

Insert Attachment A

And by renumbering sections accordingly



1 (d) As used in this section, "major depressive disorder,"  
2 "polytrauma," "post-traumatic stress disorder" and "traumatic brain injury"  
3 shall mean the same as such terms are defined in K.S.A. 2020 Supp. 21-  
4 6630, and amendments thereto.

5 Sec. ~~11~~ **13**. K.S.A. 8-1016 and K.S.A. 2020 Supp. 8-235, 8-2,142, 8-  
6 2,144, ~~8-1015, 8-1567, 8-1567a, 12-4415, 21-6604, 21-6804~~ and 22-2908  
7 are hereby repealed.

8-2,150,

8 Sec. ~~12~~ **14**. This act shall take effect and be in force from and after  
9 its publication in the statute book.

Sec. 5. K.S.A. 2021 Supp. 8-2,150 is hereby amended to read as follows: 8-2,150. (a) A driver or a holder of a commercial driver's license may not enter into a diversion agreement in lieu of further criminal proceedings that would prevent such person's conviction for any violation, in any type of motor vehicle, of a state or local traffic control law, except a parking violation, from appearing on the person's record, whether the person was convicted for an offense committed in the state where the person is licensed or another state.

(b) For purposes of subsection (a), a person shall be considered a holder of a commercial driver's license if the person was a holder of a commercial driver's license at the time the person was arrested or was issued a citation and shall remain a holder of a commercial driver's license even if the person surrenders the commercial driver's license after the arrest or citation.

(c) (1) A prosecuting attorney as defined in K.S.A. 22-2202, and amendments thereto, shall not mask or defer imposition of judgment or allow an individual to enter into a diversion program that would prevent a commercial learner's permit or commercial driver's license holder's conviction from appearing on the CDLIS driver record of any violation of a state or local traffic control law that occurred in any type of motor vehicle. The provisions of this subsection shall apply regardless of whether the driver was convicted for an offense committed in the state where the driver is licensed or in any another state.

(2) The provisions of this subsection shall not apply to parking, vehicle weight or vehicle defect violations.

(d) The provisions of this section shall be a part of and supplemental to the Kansas uniform commercial drivers' license act.