

CALVIN H. HAYDEN
SHERIFF



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Testimony to the Senate Committee on Transportation in Support of SB 41

February 5, 2019

Chairman Petersen, Vice Chairman Goddard, Ranking Member Pettey, and Members of the Committee:

The Johnson County Sheriff's Office asks for your support for Senate Bill 41. This bill was brought at the request of our Traffic and Patrol Division. There is confusion concerning **K.S.A. 8-2503, wearing of seat belt required** regarding whether the offense is a Class C misdemeanor or whether it is a traffic infraction.

K.S.A. 8-2116. Classification of violations; traffic infractions; misdemeanors; repeat misdemeanor offenses, is the controlling statute on whether a traffic offense is an infraction or a misdemeanor. The statute is printed below:

(a) Every person convicted of violating any of the sections listed in the uniform fine schedule in K.S.A. 8-2118 is guilty of a traffic infraction.

(b) Except where another penalty or class of misdemeanor is provided by statute, every person convicted of violating any provision of the uniform act regulating traffic on highways designated as a misdemeanor is guilty of a class C misdemeanor, except that upon a second such offense committed within one year after the date of the first such offense, upon conviction thereof, such person is guilty of a class B misdemeanor, and upon a third or subsequent such offense committed within one year after the first such offense, upon conviction thereof, such person is guilty of a class A misdemeanor.

K.S.A 8-2503 is not listed in the uniform fine schedule. The fine for the offense is found in K.S.A. 8-2504. That fine is either \$30 or \$60 depending on whether an adult or a minor is in violation of the statute. Statute also specifies that the violation shall not be reported to the Kansas Department of Revenue and that a violation cannot be used in a civil action. However, varied opinions issued by legal staff from different agencies exist as to whether the seat belt statute is a traffic infraction or a misdemeanor.

Our amendment to the statute clarifies the seat belt violation is a traffic infraction, and keeps the provisions that the violation is not reported to the Department of Revenue; that failure to use a seat belt is not admissible to determine negligence or damages; and that no city, county, subdivision or local authority shall enact or enforce a law in conflict with K.S.A. 8-2504.

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This is a technical amendment. It doesn't change statute but makes the intent of the statute clear. A violation of K.S.A. 8-2503 is simply a monetary fine.

We ask that you recommend Senate Bill 41 favorably for passage.

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