

SESSION OF 2020

SUPPLEMENTAL NOTE ON SENATE BILL NO. 405

As Amended by House Committee on Judiciary

Brief*

SB 405, as amended, would amend law related to driving under the influence (DUI), as follows.

Motorized Bicycles

The bill would remove a provision allowing the Division of Vehicles (Division) to issue a class C license valid only for the operation of motorized bicycles to persons who have had their driving privileges suspended for an offense other than commercial DUI or a second or subsequent DUI, complete a mandatory suspension period for DUI-related offenses, and submit an application and \$40 nonrefundable application fee. The bill would remove a corresponding provision regarding the disposition of the application fee.

Ignition Interlock Device Restrictions While Suspended

The bill would amend provisions allowing a person to apply to drive a vehicle equipped with an ignition interlock device (IID) while the person's driving privileges are suspended for a DUI-related offense to remove 45-day and 90-day waiting periods (depending on the offense) before such application is allowed. The bill also would add a provision allowing a person whose driving privileges have been suspended for 30 days for a first-time DUI test failure or conviction to apply to drive an IID-equipped vehicle during this suspension.

*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>

Ignition Interlock Device Program Completion

The bill would add the following required conditions for a person to complete the IID program:

- The person must have no more than three standard violations and no serious violation in the 90 consecutive days prior to application for reinstatement; and
- The application must occur upon or after expiration of the applicable ignition interlock period required by law.

The bill would define “standard violation” (which includes various breath alcohol concentration test failures or failure to execute or submit to retests), “serious violation” (tampering or circumventing the IID or blowing a high breath alcohol concentration during a rolling retest), and other relevant terms.

Reduced IID Program Costs

In a statute governing approval and maintenance of ignition interlock devices, the bill would remove a provision requiring each ignition interlock manufacturer provide a credit of at least two percent of the gross program revenues in Kansas as a credit for persons qualified to obtain an IID who are indigent as evidenced by qualification and eligibility for the federal food stamp program, and would add the provisions detailed below regarding reduced ignition interlock device program costs (reduced costs).

Any person whose license is restricted to operating only a motor vehicle with an IID installed could request reduced costs by submitting a request to the Division in a form and manner prescribed by the Division. The Division would be required to review each request to determine whether the person is eligible for reduced costs. A person would be

eligible for reduced costs if the person's annual household income is less than or equal to 150 percent of the federal poverty level, or if the person is eligible for the food assistance program pursuant to KSA 39-709.

If the Division determines the person is eligible for reduced costs, the person would be responsible for paying the following amounts, and the manufacturer would be directed to adjust its charges accordingly:

- Household income greater than 125 percent, up to and including 150 percent, of federal poverty level, would be responsible for 75 percent of the program costs plus non-compliance costs;
- Household income greater than 100 percent, up to and including 125 percent, of federal poverty level would be responsible for 50 percent of the program costs plus non-compliance costs;
- Household income at or below 100 percent of federal poverty level would be responsible for 25 percent of the program costs plus non-compliance costs; and
- Eligible for the food assistance program, pursuant to KSA 39-709, would be responsible for 25 percent of the program costs plus any non-compliance costs.

The bill also would amend this section to change the Secretary of Revenue's authority to adopt the relevant rules and regulations from permissive to mandatory, to provide the Secretary with authority to adopt rules and regulations regarding the requirements and guidelines for receiving reduced costs, and to reorganize some provisions within the section.

DUI Under the Age of 21; IID Restriction Period

The bill would amend the offense of DUI under the age of 21 to reduce the required IID restriction period for a first offense with a test result of 0.02 or greater but less than 0.08 from 330 to 180 days.

Technical Amendments

The bill would make technical amendments to ensure consistency in statutory references and phrasing.

Background

The bill was introduced by the Senate Committee on Judiciary at the request of the Kansas Judicial Council.

In the Senate Committee hearing, a representative of the Kansas Judicial Council testified in support of the bill, stating it contained recommendations from the ongoing study of the Judicial Council's DUI Advisory Committee, originally requested by Representative Finch in May 2018. The Judicial Council representative also stated removing the motorized bicycle license provision would make Kansas eligible to receive \$250,000 in federal funding to support the IID program; the IID program completion provisions would implement compliance-based completion concepts, rather than just time-based completion, for the program; and amending the IID period for drivers under 21 years old would make it consistent with the IID period for such a driver whose blood or breath alcohol content was higher. A representative of the Coalition of Ignition Interlock Manufacturers also testified in support of the bill, with suggested amendments. A representative of the Kansas Department of Transportation and a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association submitted written-only proponent testimony.

No neutral or opponent testimony was provided.

In the House Committee on Judiciary hearing, the same conferees who appeared before the Senate Committee testified in support of the bill. A representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association submitted written-only proponent testimony. No neutral or opponent testimony was provided.

The House Committee adopted amendments based on suggestions by the Coalition of Ignition Interlock Manufacturers to remove suspension waiting periods before application for IID restrictions may be made and to tier the indigency program with a ceiling of 150 percent of the federal poverty level, instead of 300 percent.

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the Department of Revenue estimates enactment of the bill would require administrative costs of \$7,000 in FY 2021. If the combined effect of implementing the bill and other enacted legislation exceeds the Department's programming resources, or if time for implementing the changes is too short, expenditures for outside contract programmer services beyond the Department's current budget may be required.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2021 Governor's Budget Report*.