

HOUSE BILL No. 2859

By Committee on Transportation

2-12

9 AN ACT concerning driving privileges; imposing school attendance
10 requirements upon certain persons; amending K.S.A. 8-255 and re-
11 pealing the existing section.

12

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

14 New Section 1. (a) The division of vehicles of the department of
15 revenue shall not issue any driver's license under the provisions of K.S.A.
16 8-237, or 8-2,147, and amendments thereto, farm permit under the pro-
17 visions of K.S.A. 8-296, and amendments thereto, or instruction permit
18 under the provisions of K.S.A. 8-239, and amendments thereto, for the
19 operation of a motor vehicle to any person who is less than 18 years of
20 age and who, at the time of making application for such license or permit,
21 does not submit documentation that the person holds a diploma or other
22 certificate of graduation issued to the person from a secondary school of
23 this state or any other state, or that the person holds a general educational
24 development (GED) certificate from a state approved institution or or-
25 ganization, or that the person: (1) Is enrolled in, attending and making
26 satisfactory progress in school; or (2) is excused from such requirement
27 due to circumstances beyond such person's control.

28 (b) Upon request, an attendance director or principal shall provide
29 documentation of enrollment and attendance status on a form approved
30 by the state board of education to any prospective student driver who is
31 properly enrolled in and attending a school under the jurisdiction of such
32 attendance director or principal for submission to the division of vehicles
33 on application for or reinstatement of a driver's license or an instruction
34 permit to operate a motor vehicle.

35 (c) Whenever a student driver withdraws from school, except as pro-
36 vided in subsection (e), the attendance director or principal shall notify
37 the division of vehicles of such withdrawal. Within 10 days of receipt of
38 such notice, the division of vehicles shall send notice to the student driver
39 that the student driver's driving privileges will be restricted for 30 days
40 in accordance with K.S.A. 8-237 or 8-296, and amendments thereto. If
41 the student driver can provide documentation to the division that:

42 (1) The student has applied for a general education development
43 (GED) certificate from a state approved institution or organization; or

1 (2) the student has been employed on a full-time basis; then the stu-
2 dent driver shall be eligible to receive a driver's license which is restricted
3 in accordance with K.S.A. 8-237, and amendments thereto, until the stu-
4 dent reaches 18 years of age.

5 If the student driver does not comply with paragraphs (1) or (2) of
6 subsection (c), such student driver's driving privileges shall be suspended
7 until the student driver is 18 years of age.

8 (d) Any student driver who is 17 years of age or less, who has not
9 been issued a driver's license by the division of vehicles, and who with-
10 draws from school, the attendance director or principal shall notify the
11 division of vehicles of such withdrawal and if the student driver complies
12 with the provisions of paragraphs (1) or (2) of subsection (c), shall be
13 eligible to receive a driver's license which is restricted in accordance with
14 K.S.A. 8-237, and amendments thereto, until the student is 18 years of
15 age.

16 If the student does not comply with paragraphs (1) or (2) of subsection
17 (c), such unlicensed student driver's privilege of obtaining a driver's li-
18 cense issued by the division of vehicles shall be revoked or suspended
19 until the student is 18 years of age.

20 (e) Whenever withdrawal from school of a student driver, or such
21 student driver's failure to enroll in and attend school, is beyond the con-
22 trol of the student driver, or is for the purpose of transfer to another
23 school as confirmed in writing by the student driver's parent or guardian,
24 no notice shall be sent to the division of vehicles to suspend the student
25 driver's driving privileges. The attendance director or principal shall pro-
26 vide the student driver with documentation to present to the division of
27 vehicles to excuse such student driver from the school attendance require-
28 ments of this section. A school district superintendent or a like official of
29 any school, with the assistance of any other staff or school personnel, shall
30 be the sole judge of whether withdrawal from school is due to circum-
31 stances beyond the control of a student driver. Suspension or expulsion
32 from school or imprisonment in a jail or a penitentiary is not a circum-
33 stance beyond the control of a student driver.

34 (f) For the purposes of this section:

35 (1) "Student driver" means a person who is: (A) At least 14 years of
36 age and less than 18 years of age; and (B) properly enrolled in and at-
37 tending school or excused from the school attendance requirements of
38 this section;

39 (2) "school" means:

40 (A) A public or nonpublic school operating in this state and attend-
41 ance at which satisfies the requirements of K.S.A. 72-1111, and amend-
42 ments thereto; (B) a special education program provided for under the
43 laws of this state; (C) an area vocational school or area vocational-technical

1 school; (D) a program of instruction designed to prepare persons for
2 general educational development (GED) examinations and credentials;
3 (E) an adult basic education program established and operating under
4 the laws of this state; (F) a regularly supervised program of instruction
5 approved by the state board of education under subsection (f) of K.S.A.
6 72-1111, and amendments thereto; (G) a community college organized
7 and operating under the laws of this state; (H) a technical college organ-
8 ized and operating under the laws of this state; (I) the job preparation,
9 training and education component of the KanWork program; or (J) a
10 proprietary school operating under a certificate of approval issued by the
11 state board of education;

12 (3) “withdrawal from school” or “withdraws from school” means
13 more than 10 consecutive or 15 days total unexcused absences from
14 school during a single semester or other term.

15 Sec. 2. K.S.A. 8-255 is hereby amended to read as follows: 8-255. (a)
16 The division is authorized to restrict, suspend or revoke a person’s driving
17 privileges upon a showing by its records or other sufficient evidence the
18 person:

19 (1) Has been convicted with such frequency of serious offenses
20 against traffic regulations governing the movement of vehicles as to in-
21 dicate a disrespect for traffic laws and a disregard for the safety of other
22 persons on the highways;

23 (2) has been convicted of three or more moving traffic violations com-
24 mitted on separate occasions within a 12-month period;

25 (3) is incompetent to drive a motor vehicle;

26 (4) has been convicted of a moving traffic violation, committed at a
27 time when the person’s driving privileges were restricted, suspended or
28 revoked; or

29 (5) is a member of the armed forces of the United States stationed
30 at a military installation located in the state of Kansas, and the authorities
31 of the military establishment certify that such person’s on-base driving
32 privileges have been suspended, by action of the proper military author-
33 ities, for violating the rules and regulations of the military installation
34 governing the movement of vehicular traffic or for any other reason re-
35 lating to the person’s inability to exercise ordinary and reasonable control
36 in the operation of a motor vehicle.

37 (b) The division shall suspend a person’s driving privileges when re-
38 quired by K.S.A. 8-262, 8-1014 or 41-727, and amendments thereto, and
39 K.S.A. ~~2000~~ 2003 Supp. 21-3765, and amendments thereto, *and section*
40 *1, and amendments thereto*, and shall disqualify a person’s privilege to
41 drive commercial motor vehicles when required by K.S.A. 8-2,142, and
42 amendments thereto.

43 (c) When the action by the division restricting, suspending, revoking

1 or disqualifying a person's driving privileges is based upon a report of a
2 conviction or convictions from a convicting court, the person may not
3 request a hearing but, within 30 days after notice of restriction, suspen-
4 sion, revocation or disqualification is mailed, may submit a written request
5 for administrative review and provide evidence to the division to show
6 the person whose driving privileges have been restricted, suspended, re-
7 voked or disqualified by the division was not convicted of the offense
8 upon which the restriction, suspension, revocation or disqualification is
9 based. Within 30 days of its receipt of the request for administrative
10 review, the division shall notify the person whether the restriction, sus-
11 pension, revocation or disqualification has been affirmed or set aside. The
12 request for administrative review shall not stay any action taken by the
13 division.

14 (d) Upon restricting, suspending, revoking or disqualifying the driv-
15 ing privileges of any person as authorized by this act, the division shall
16 immediately notify the person in writing. Except as provided by K.S.A.
17 8-1002 and 8-2,145, and amendments thereto, and subsection (c) of this
18 section, if the person makes a written request for hearing within 30 days
19 after such notice of restriction, suspension or revocation is mailed, the
20 division shall afford the person an opportunity for a hearing as early as
21 practical not sooner than five days nor more than 30 days after such
22 request is mailed. If the division has not revoked or suspended the per-
23 son's driving privileges or vehicle registration prior to the hearing, the
24 hearing may be held within not to exceed 45 days. Except as provided by
25 K.S.A. 8-1002 and 8-2,145, and amendments thereto, the hearing shall
26 be held in the person's county of residence or a county adjacent thereto,
27 unless the division and the person agree that the hearing may be held in
28 some other county. Upon the hearing, the director or the director's duly
29 authorized agent may administer oaths and may issue subpoenas for the
30 attendance of witnesses and the production of relevant books and papers
31 and may require an examination or reexamination of the person. When
32 the action proposed or taken by the division is authorized but not re-
33 quired, the division, upon the hearing, shall either rescind or affirm its
34 order of restriction, suspension or revocation or, good cause appearing
35 therefor, extend the restriction or suspension of the person's driving priv-
36 ileges, modify the terms of the restriction or suspension or revoke the
37 person's driving privileges. When the action proposed or taken by the
38 division is required, the division, upon the hearing, shall either affirm its
39 order of restriction, suspension, revocation or disqualification, or, good
40 cause appearing therefor, dismiss the administrative action. If the person
41 fails to request a hearing within the time prescribed or if, after a hearing,
42 the order of restriction, suspension, revocation or disqualification is up-
43 held, the person shall surrender to the division, upon proper demand,

1 any driver's license in the person's possession.

2 (e) In case of failure on the part of any person to comply with any
3 subpoena issued in behalf of the division or the refusal of any witness to
4 testify to any matters regarding which the witness may be lawfully inter-
5 rogated, the district court of any county, on application of the division,
6 may compel obedience by proceedings for contempt, as in the case of
7 disobedience of the requirements of a subpoena issued from the court or
8 a refusal to testify in the court. Each witness who appears before the
9 director or the director's duly authorized agent by order or subpoena,
10 other than an officer or employee of the state or of a political subdivision
11 of the state, shall receive for the witness' attendance the fees and mileage
12 provided for witnesses in civil cases in courts of record, which shall be
13 audited and paid upon the presentation of proper vouchers sworn to by
14 the witness.

15 (f) The division, in the interest of traffic and safety, may establish
16 driver improvement clinics throughout the state and, upon reviewing the
17 driving record of a person whose driving privileges are subject to suspen-
18 sion under subsection (a)(2), may permit the person to retain such per-
19 son's driving privileges by attending a driver improvement clinic. A person
20 who is required to attend a driver improvement clinic shall pay a fee of
21 \$15. Amounts received under this subsection shall be remitted to the state
22 treasurer in accordance with the provisions of K.S.A. 75-4215, and
23 amendments thereto. Upon receipt of each such remittance, the state
24 treasurer shall deposit the same in the state treasury to the credit of the
25 division of vehicles operating fund.

26 Sec. 3. K.S.A. 8-255 is hereby repealed.

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