

## SENATE BILL No. 250

By Senator Haley

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9 AN ACT concerning motor vehicles; prohibiting smoking when certain  
10 children are in motor vehicle; amending K.S.A. 8-2106 and repealing  
11 the existing section.

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

14 New Section 1. (a) As used in this section “motor vehicle” shall have  
15 the meaning ascribed to it in K.S.A. 8-1437, and amendments thereto.

16 (b) No person shall smoke in any motor vehicle in which a child who  
17 is eight years of age or less is being transported.

18 (c) Law enforcement officers shall not stop drivers for violations of  
19 this section in the absence of another violation of law. A citation for vi-  
20 olation of this section shall not be issued without citing the violation that  
21 initially caused the officer to effect the enforcement stop.

22 (d) (1) From and after the effective date of this act, and prior to July  
23 1, 2008, a law enforcement officer shall issue a warning citation to anyone  
24 violating subsection (b); and

25 (2) on and after July 1, 2008, any person violating subsection (b) shall  
26 be fined not more than \$25 including court costs.

27 (e) For the first violation of subsection (b), the \$25 fine provided for  
28 in subsection (d)(2) shall be waived, if the person provides proof to the  
29 court that such person has entered into a smoking cessation program.

30 Sec. 2. K.S.A. 8-2106 is hereby amended to read as follows: 8-2106.

31 (a) A law enforcement officer may prepare and deliver to a person a  
32 written traffic citation on a form approved by the division of ~~motor~~ ve-  
33 hicles, if the law enforcement officer stops the person for a violation of:

34 (1) The uniform act regulating traffic on highways, which violation is  
35 a misdemeanor or a traffic infraction;

36 (2) K.S.A. 8-262, 8-287, 8-2,144, 21-3610, 21-3610a, 21-3722, 21-  
37 3724, 21-3725, 21-3728, 21-4101, 40-3104, 40-3106, 41-715, 41-724, 41-  
38 727, 47-607, 66-1,111, 66-1,129, 66-1,139, 66-1,140, 66-273, 66-1314, 66-  
39 1324, 66-1330, 66-1331, 66-1332, 68-2104, 68-2106, subsection (b) of  
40 K.S.A. 79-34,122, or K.S.A. 8-1599, and amendments thereto;

41 (3) K.S.A. 31-155 and amendments thereto involving transportation  
42 of bottle rockets;

43 (4) K.S.A. 66-1314 or 66-1328, and amendments thereto, and any

1 rules and regulations adopted pursuant thereto;

2 (5) any rules and regulations adopted pursuant to K.S.A. 2-1212, 68-

3 2001 or 31-146, and amendments thereto;

4 (6) any rules and regulations adopted pursuant to K.S.A. 31-133 and

5 amendments thereto relating to transportation of materials or fuel; or

6 (7) K.S.A. 8-1343 through 8-1347 and amendments thereto relating

7 to the child passenger safety act; or

8 (8) K.S.A. 8-2501 through 8-2507 and amendments thereto relating

9 to the safety belt use act.

10 (b) *A law enforcement officer may prepare and deliver to a person a*

11 *written traffic citation on a form approved by the division of vehicles for*

12 *a violation of section 1, and amendments thereto, relating to smoking with*

13 *children in a motor vehicle.*

14 ~~(b)~~ (c) The citation shall contain a notice to appear in court, the name

15 and address of the person, the type of vehicle the person was driving,

16 whether hazardous materials were being transported, whether an acci-

17 dent occurred, the state registration number of the person's vehicle, if

18 any, a statement whether the vehicle is a commercial vehicle, whether

19 the person is licensed to drive a commercial motor vehicle, the offense

20 or offenses charged, the time and place when and where the person shall

21 appear in court, the signature of the law enforcement officer, and any

22 other pertinent information.

23 ~~(c)~~ (d) The time specified in the notice to appear shall be at least five

24 days after the alleged violation unless the person charged with the vio-

25 lation demands an earlier hearing.

26 ~~(d)~~ (e) The place specified in the notice to appear shall be before a

27 judge of the district court within the county in which the offense is alleged

28 to have been committed.

29 ~~(e)~~ (f) Except in the circumstances to which subsection (a) of K.S.A.

30 8-2104, and amendments thereto, apply, in the discretion of the law en-

31 forcement officer, a person charged with a misdemeanor may give written

32 promise to appear in court by signing at least one copy of the written

33 citation prepared by the law enforcement officer, in which event the law

34 enforcement officer shall deliver a copy of the citation to the person and

35 shall not take the person into physical custody.

36 ~~(f)~~ (g) When a person is charged with a traffic infraction, the notice

37 to appear shall provide a place where the person may make a written

38 entry of appearance, waive the right to a trial and plead guilty or no

39 contest. The notice to appear shall provide a space where the law en-

40 forcement officer shall enter the appropriate fine specified in the uniform

41 fine schedule contained in K.S.A. 8-2118, and amendments thereto, for

42 the violation charged and court costs in the amount provided by law. If

43 the notice to appear does not do so, the law enforcement officer shall

1 provide a person charged with a traffic infraction a form explaining the  
2 person's right to appear and right to a trial, the person's right to pay the  
3 appropriate fine and court costs prior to the appearance date, and that  
4 failure to either pay such fine and court costs or appear at the specified  
5 time may result in suspension of the person's driver's license. The law  
6 enforcement officer shall provide the person with the address of the court  
7 to which the written entry of appearance, waiver of trial, plea of guilty or  
8 no contest and payment of fine and court costs shall be mailed.

9 ~~(g)~~ (h) Any officer violating any of the provisions of subsection ~~(f)~~ (g)  
10 is guilty of misconduct in office and shall be subject to removal from  
11 office.

12 Sec. 3. K.S.A. 8-2106 is hereby repealed.

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