

## HOUSE BILL No. 2812

By Representative Schwartz

2-11

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9 AN ACT concerning driving privileges; imposing school attendance  
10 requirements upon certain persons; amending K.S.A. 2007 Supp. 8-  
11 255 and repealing 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 (f), 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.

41 (d) The student driver shall be eligible to receive a driver's license  
42 which is restricted in accordance with K.S.A. 8-237, and amendments  
43 thereto, until the student reaches 18 years of age if the student driver can

1 provide documentation to the division that:

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

4 (2) the student has been employed on a full-time basis.

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

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

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

33 (g) As used in this section:

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

38 (2) "School" means: (A) A public or nonpublic school operating in  
39 this state and attendance at which satisfies the requirements of K.S.A.  
40 72-1111, and amendments thereto; (B) a special education program pro-  
41 vided for under the laws of this state; (C) an area vocational school or  
42 area vocational-technical school; (D) a program of instruction designed  
43 to prepare persons for general educational development (GED) exami-

1 nations and credentials; (E) an adult basic education program established  
2 and operating under the laws of this state; (F) a regularly supervised  
3 program of instruction approved by the state board of education under  
4 subsection (f) of K.S.A. 72-1111, and amendments thereto; (G) a com-  
5 munity college organized and operating under the laws of this state; (H)  
6 a technical college organized and operating under the laws of this state;  
7 (I) the job preparation, training and education component of the  
8 KanWork program; or (J) a proprietary school operating under a certifi-  
9 cate of approval issued by the state board of education.

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

13 Sec. 2. K.S.A. 2007 Supp. 8-255 is hereby amended to read as fol-  
14 lows: 8-255. (a) The division is authorized to restrict, suspend or revoke  
15 a person’s driving privileges upon a showing by its records or other suf-  
16 ficient evidence the person:

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

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

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

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

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

35 (b) The division shall suspend a person’s driving privileges when re-  
36 quired by K.S.A. 8-262, 8-1014, 21-3765 ~~or~~, 41-727 *or section 1*, and  
37 amendments thereto, and shall disqualify a person’s privilege to drive  
38 commercial motor vehicles when required by K.S.A. 8-2,142, and amend-  
39 ments thereto. The division shall restrict a person’s driving privileges  
40 when required by K.S.A. 2007 Supp. 39-7,155, and amendments thereto.

41 (c) When the action by the division restricting, suspending, revoking  
42 or disqualifying a person’s driving privileges is based upon a report of a  
43 conviction or convictions from a convicting court, the person may not

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

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

43 (e) In case of failure on the part of any person to comply with any

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

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

24 (g) When the action by the division restricting a person's driving priv-  
25 ileges is based upon certification by the secretary of social and rehabili-  
26 tation services pursuant to K.S.A. 2007 Supp. 39-7,155, and amendments  
27 thereto, the person may not request a hearing but, within 30 days after  
28 notice of suspension is mailed, may submit a written request for admin-  
29 istrative review and provide evidence to the division to show the person  
30 whose driving privileges have been restricted by the division is not the  
31 person certified by the secretary of social and rehabilitation services, did  
32 not receive timely notice of the proposed restriction from the secretary  
33 of social and rehabilitation services or has been decertified by the sec-  
34 retary of social and rehabilitation services. Within 30 days of its receipt  
35 of the request for administrative review, the division shall notify the per-  
36 son whether the restriction has been affirmed or set aside. The request  
37 for administrative review shall not stay any action taken by the division.

38 Sec. 3. K.S.A. 2007 Supp. 8-255 is hereby repealed.

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