

## HOUSE BILL No. 2670

By Committee on Federal and State Affairs

2-8

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9 AN ACT concerning crimes and criminal procedure; providing for elec-  
10 tronic citations, complaints and notices to appear; amending K.S.A.  
11 2009 Supp. 40-3104 and repealing 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:

15 (1) "Electronic citation" means a charging citation, complaint or no-  
16 tice to appear which is prepared by a law enforcement officer in an elec-  
17 tronic data device with intent that the data collected will be electronically  
18 filed with a court or prosecutor for prosecution of a crime as provided in  
19 subsection (a) of K.S.A. 8-2106, and amendments thereto. The data ele-  
20 ments collected shall conform to the requirements of the division of mo-  
21 tor vehicles as the form of a paper citation and must be approved as  
22 provided in subsection (a) of K.S.A. 8-2106, and amendments thereto.

23 (2) "Electronic citation system" means the device, database or com-  
24 puter software used to create, store, transmit or exchange the data in-  
25 cluded in an electronic citation.

26 (3) "Electronic signature" means an electronic signature having legal  
27 effect pursuant to the Kansas uniform electronic transaction act, K.S.A.  
28 16-1601 et seq., and amendments thereto.

29 (b) For purposes of an electronic citation issued under this section,  
30 an electronic signature indicated by the law enforcement officer's typed  
31 name, agency and agency number has the same effect and is as sufficient  
32 as a manual signature as required in K.S.A. 8-2106, 8-2108 or subsection  
33 (b) of 22-3201, and amendments thereto.

34 (c) A notice to appear, complaint or citation as provided in K.S.A. 8-  
35 2106, and amendments thereto, shall be deemed to be written if on a  
36 paper form or in a document printed from an electronic citation system.

37 (d) A person being charged by a law enforcement officer shall be  
38 deemed to have signed a citation or notice to appear as provided in K.S.A.  
39 8-2106 and 8-2107, and amendments thereto, if the person physically  
40 signs the paper citation or notice to appear document or, in the case of  
41 an electronic citation or notice to appear, verbally acknowledges that the  
42 person promises to appear on or before the date set at or with the des-  
43 ignated court. To secure a verbal promise to appear, the law enforcement

1 officer shall ask, “Do you agree to appear before the \_\_\_\_\_ court on  
2 or before \_\_\_\_\_ (date)?” The officer shall accurately record the re-  
3 sponse of the person being charged as: Yes, no or no response.

4 (e) This section shall be part of and supplemental to the uniform act  
5 regulating traffic on highways.

6 New Sec. 2. (a) As used in this section:

7 (1) “Electronic citation” means a charging citation, complaint or no-  
8 tice to appear which is prepared by a law enforcement officer in an elec-  
9 tronic data device with intent that the data collected will be electronically  
10 filed with a municipal court as provided in K.S.A. 12-4201 through 12-  
11 4207, and amendments thereto, for prosecution of a municipal ordinance  
12 violation. The data elements collected shall conform to the requirements  
13 of K.S.A. 12-4201 through 12-4207, and amendments thereto, or the  
14 requirements of the secretary of revenue or the secretary’s designee pur-  
15 suant to K.S.A. 79-3393, and amendments thereto, as applicable.

16 (2) “Electronic citation system” means the device, database or com-  
17 puter software used to create, store, transmit or exchange the data in-  
18 cluded in an electronic citation.

19 (3) “Electronic signature” means an electronic signature having legal  
20 effect pursuant to the Kansas uniform electronic transaction act, K.S.A.  
21 16-1601 et seq., and amendments thereto.

22 (b) For purposes of an electronic citation, including the notice to  
23 appear and complaint, issued under this section, an electronic signature  
24 indicated by the law enforcement officer’s typed name, agency and agency  
25 identification number has the same effect and is as sufficient as a manual  
26 signature as required in K.S.A. 12-4202, 12-4204, 12-4207, subsection (b)  
27 of 22-3201 or 79-3393, and amendments thereto.

28 (c) A notice to appear, complaint or citation as provided in K.S.A. 12-  
29 4201 through 12-4207 or 79-3393, and amendments thereto, shall be  
30 deemed to be written if on a paper form or in a document printed from  
31 an electronic citation system.

32 (d) For purposes of signing a notice to appear as provided in K.S.A.  
33 8-2107 and 12-4204, and amendments thereto, a person being charged  
34 by a law enforcement officer shall be deemed to have signed the notice  
35 to appear if the person physically signs the paper notice to appear or, in  
36 the case of an electronic citation, verbally acknowledges that the person  
37 promises to appear on or before the date set at or with the designated  
38 court. To secure a verbal promise to appear, the law enforcement officer  
39 shall ask, “Do you agree to appear at the \_\_\_\_\_ court on or before  
40 \_\_\_\_\_ (date)?” The officer shall accurately record the response of the  
41 person being charged as: Yes, no or no response.

42 (e) This section shall be part of and supplemental to the Kansas code  
43 of procedure for municipal courts.

1 New Sec. 3. (a) As used in this section:

2 (1) "Electronic citation" means a charging citation, complaint or no-  
3 tice to appear which is prepared by a law enforcement officer in an elec-  
4 tronic data device with intent that the data collected will be electronically  
5 filed with a court as provided in K.S.A. 19-4709 through 19-4715, and  
6 amendments thereto, for prosecution of a violation of a county code or  
7 resolution. The data elements collected shall conform to the requirements  
8 of K.S.A. 19-4709 through 19-4715, and amendments thereto, or the  
9 requirements of the secretary of revenue or the secretary's designee pur-  
10 suant to K.S.A. 79-3393, and amendments thereto, as applicable.

11 (2) "Electronic citation system" means the device, database or com-  
12 puter software used to create, store, transmit or exchange the data in-  
13 cluded in an electronic citation.

14 (3) "Electronic signature" means an electronic signature having legal  
15 effect pursuant to the Kansas uniform electronic transaction act, K.S.A.  
16 16-1601 et seq., and amendments thereto.

17 (b) For purposes of an electronic citation, including the notice to  
18 appear and complaint, issued under this section, an electronic signature  
19 indicated by the law enforcement officer's typed name, agency and agency  
20 identification number has the same effect and is as sufficient as a manual  
21 signature as required pursuant to K.S.A. 19-4710, 19-4712, 19-4715, sub-  
22 section (b) of 22-3201 or 79-3393, and amendments thereto.

23 (c) A notice to appear, complaint or citation as provided in K.S.A. 19-  
24 4709 through 19-4715 or 79-3393, and amendments thereto, shall be  
25 deemed to be written if on a paper form or in a document printed from  
26 an electronic citation system.

27 (d) For purposes of signing a notice to appear as provided in K.S.A.  
28 8-2107 and 19-4712, and amendments thereto, a person being charged  
29 by a law enforcement officer shall be deemed to have signed the notice  
30 to appear if the person physically signs the paper notice to appear or, in  
31 the case of an electronic citation, verbally acknowledges that the person  
32 promises to appear on or before the date set at or with the designated  
33 court. To secure a verbal promise to appear, the law enforcement officer  
34 shall ask, "Do you agree to appear at the \_\_\_\_\_ court on or before  
35 \_\_\_\_\_ (*date*)?" The officer shall accurately record the response of the  
36 person being charged as: Yes, no or no response.

37 (e) This section shall be part of and supplemental to the code for  
38 enforcement of county codes and resolutions.

39 Sec. 4. K.S.A. 2009 Supp. 40-3104 is hereby amended to read as  
40 follows: 40-3104. (a) Every owner shall provide motor vehicle liability  
41 insurance coverage in accordance with the provisions of this act for every  
42 motor vehicle owned by such person, unless such motor vehicle: (1) Is  
43 included under an approved self-insurance plan as provided in subsection

1 (f); (2) is used as a driver training motor vehicle, as defined in K.S.A. 72-  
2 5015, and amendments thereto, in an approved driver training course by  
3 a school district or an accredited nonpublic school under an agreement  
4 with a motor vehicle dealer, and such motor vehicle liability insurance  
5 coverage is provided by the school district or accredited nonpublic school;  
6 (3) is included under a qualified plan of self-insurance approved by an  
7 agency of the state in which such motor vehicle is registered and the form  
8 prescribed in subsection (b) of K.S.A. 40-3106, and amendments thereto,  
9 has been filed; or (4) is expressly exempted from the provisions of this  
10 act.

11 (b) An owner of an uninsured motor vehicle shall not permit the  
12 operation thereof upon a highway or upon property open to use by the  
13 public, unless such motor vehicle is expressly exempted from the provi-  
14 sions of this act.

15 (c) No person shall knowingly drive an uninsured motor vehicle upon  
16 a highway or upon property open to use by the public, unless such motor  
17 vehicle is expressly exempted from the provisions of this act.

18 (d) Any person operating a motor vehicle upon a highway or upon  
19 property open to use by the public shall display, upon demand, evidence  
20 of financial security to a law enforcement officer. The law enforcement  
21 officer shall issue a citation to any person who fails to display evidence of  
22 financial security upon such demand. The law enforcement officer shall  
23 ~~attach~~ *transmit* a copy of the insurance verification form prescribed by  
24 the secretary of revenue ~~to with~~ the copy of the citation ~~forwarded~~ *trans-*  
25 *mitted* to the court.

26 No citation shall be issued to any person for failure to provide proof of  
27 financial security when evidence of financial security meeting the stan-  
28 dards of subsection (e) is displayed upon demand of a law enforcement  
29 officer. Whenever the authenticity of such evidence is questionable, the  
30 law enforcement officer may initiate the preparation of the insurance  
31 verification form prescribed by the secretary of revenue by recording  
32 information from the evidence of financial security displayed. The officer  
33 shall immediately forward the form to the department of revenue, and  
34 the department shall proceed with verification in the manner prescribed  
35 in the following paragraph. Upon return of a form indicating that insur-  
36 ance was not in force on the date indicated on the form, the department  
37 shall immediately forward a copy of the form to the law enforcement  
38 officer initiating preparation of the form.

39 (e) Unless the insurance company subsequently submits an insurance  
40 verification form indicating that insurance was not in force, no person  
41 charged with violating ~~subsections~~ *subsection* (b), (c) or (d) shall be con-  
42 victed if such person produces in court, within 10 days of the date of  
43 arrest or of issuance of the citation, evidence of financial security for the

1 motor vehicle operated, which was valid at the time of arrest or of issuance  
2 of the citation. For the purpose of this subsection, evidence of financial  
3 security shall be provided by a policy of motor vehicle liability insurance,  
4 an identification card or certificate of insurance issued to the policyholder  
5 by the insurer which provides the name of the insurer, the policy number  
6 and the effective and expiration dates of the policy, or a certificate of self-  
7 insurance signed by the commissioner of insurance. Upon the production  
8 in court of evidence of financial security, the court shall record the in-  
9 formation displayed thereon on the insurance verification form prescribed  
10 by the secretary of revenue, immediately forward such form to the de-  
11 partment of revenue, and stay any further proceedings on the matter  
12 pending a request from the prosecuting attorney that the matter be set  
13 for trial. Upon receipt of such form the department shall mail the form  
14 to the named insurance company for verification that insurance was in  
15 force on the date indicated on the form. It shall be the duty of insurance  
16 companies to notify the department within 30 calendar days of the receipt  
17 of such forms of any insurance that was not in force on the date specified.  
18 Upon return of any form to the department indicating that insurance was  
19 not in force on such date, the department shall immediately forward a  
20 copy of such form to the office of the prosecuting attorney or the city  
21 clerk of the municipality in which such prosecution is pending when the  
22 prosecuting attorney is not ascertainable. Receipt of any completed form  
23 indicating that insurance was not in effect on the date specified shall be  
24 prima facie evidence of failure to provide proof of financial security and  
25 violation of this section. A request that the matter be set for trial shall be  
26 made immediately following the receipt by the prosecuting attorney of a  
27 copy of the form from the department of revenue indicating that insur-  
28 ance was not in force. Any charge of violating subsection (b), (c) or (d)  
29 shall be dismissed if no request for a trial setting has been made within  
30 60 days of the date evidence of financial security was produced in court.

31 (f) Any person in whose name more than 25 motor vehicles are reg-  
32 istered in Kansas may qualify as a self-insurer by obtaining a certificate  
33 of self-insurance from the commissioner of insurance. The certificate of  
34 self-insurance issued by the commissioner shall cover such owned vehi-  
35 cles and those vehicles, registered in Kansas, leased to such person if the  
36 lease agreement requires that motor vehicle liability insurance on the  
37 vehicles be provided by the lessee. Upon application of any such person,  
38 the commissioner of insurance may issue a certificate of self-insurance,  
39 if the commissioner is satisfied that such person is possessed and will  
40 continue to be possessed of ability to pay any liability imposed by law  
41 against such person arising out of the ownership, operation, maintenance  
42 or use of any motor vehicle described in this subsection. A self-insurer  
43 shall provide liability coverage subject to the provisions of subsection (e)

1 of K.S.A. 40-3107, and amendments thereto, arising out of the ownership,  
2 operation, maintenance or use of a self-insured motor vehicle in those  
3 instances where the lessee or the rental driver, if not the lessee, does not  
4 have a motor vehicle liability insurance policy or insurance coverage pur-  
5 suant to a motor vehicle liability insurance policy or certificate of insur-  
6 ance or such insurance policy for such leased or rented vehicle. Such  
7 liability coverage shall be provided to any person operating a self-insured  
8 motor vehicle with the expressed or implied consent of the self-insurer.

9 Upon notice and a hearing in accordance with the provisions of the  
10 Kansas administrative procedure act, the commissioner of insurance may  
11 cancel a certificate of self-insurance upon reasonable grounds. Failure to  
12 provide liability coverage or personal injury protection benefits required  
13 by K.S.A. 40-3107 and 40-3109, and amendments thereto, or pay any  
14 liability imposed by law arising out of the ownership, operation, mainte-  
15 nance or use of a motor vehicle registered in such self-insurer's name, or  
16 to otherwise comply with the requirements of this subsection shall con-  
17 stitute reasonable grounds for the cancellation of a certificate of self-  
18 insurance. Reasonable grounds shall not exist unless such objectionable  
19 activity occurs with such frequency as to indicate a general business  
20 practice.

21 Self-insureds shall investigate claims in a reasonably prompt manner,  
22 handle such claims in a reasonable manner based on available information  
23 and effectuate prompt, fair and equitable settlement of claims in which  
24 liability has become reasonably clear.

25 As used in this subsection, "liability imposed by law" means the stated  
26 limits of liability as provided under subsection (e) of K.S.A. 40-3107, and  
27 amendments thereto.

28 Nothing in this subsection shall preclude a self-insurer from pursuing  
29 all rights of subrogation against another person or persons.

30 (g) (1) Any person violating any provision of this section shall be  
31 guilty of a class B misdemeanor and shall be subject to a fine of not less  
32 than \$300 nor more than \$1,000 or confinement in the county jail for a  
33 term of not more than six months, or both such fine and confinement.

34 (2) Any person convicted of violating any provision of this section  
35 within three years of any such prior conviction shall be guilty of a class A  
36 misdemeanor and shall be subject to a fine of not less than \$800 nor more  
37 than \$2,500.

38 (h) In addition to any other penalties provided by this act for failure  
39 to have or maintain financial security in effect, the director, upon receipt  
40 of a report required by K.S.A. 8-1607 or 8-1611, and amendments  
41 thereto, or a denial of such insurance by the insurance company listed on  
42 the form prescribed by the secretary of revenue pursuant to subsection  
43 (d) of this section, shall, upon notice and hearing as provided by K.S.A.

1 40-3118, and amendments thereto:

2 (1) Suspend:

3 (A) The license of each driver in any manner involved in the accident;

4 (B) the license of the owner of each motor vehicle involved in such  
5 accident, unless the vehicle was stolen at the time of the accident, proof  
6 of which must be established by the owner of the motor vehicle. Theft  
7 by a member of the vehicle owner's immediate family under the age of  
8 18 years shall not constitute a stolen vehicle for the purposes of this  
9 section;

10 (C) if the driver is a nonresident, the privilege of operating a motor  
11 vehicle within this state; or

12 (D) if such owner is a nonresident, the privilege of such owner to  
13 operate or permit the operation within this state of any motor vehicle  
14 owned by such owner; and

15 (2) revoke the registration of all vehicles owned by the owner of each  
16 motor vehicle involved in such accident.

17 (i) The suspension or revocation requirements in subsection (h) shall  
18 not apply:

19 (1) To the driver or owner if the owner had in effect at the time of  
20 the accident an automobile liability policy as required by K.S.A. 40-3107,  
21 and amendments thereto, with respect to the vehicle involved in the  
22 accident;

23 (2) to the driver, if not the owner of the vehicle involved in the ac-  
24 cident, if there was in effect at the time of the accident an automobile  
25 liability policy with respect to such driver's driving of vehicles not owned  
26 by such driver;

27 (3) to any self-insurer as defined by subsection (u) of K.S.A. 40-3103,  
28 and amendments thereto;

29 (4) to the driver or owner of any vehicle involved in the accident  
30 which was exempt from the provisions of this act pursuant to K.S.A. 40-  
31 3105, and amendments thereto;

32 (5) to the owner of a vehicle described in subsection (a)(2).

33 (j) (1) For the purposes of provisions (1) and (2) of subsection (i) of  
34 this section, the director may require verification by an owner's or driver's  
35 insurance company or agent thereof that there was in effect at the time  
36 of the accident an automobile liability policy as required in this act.

37 (2) Subject to the provisions of subsection (k), any suspension or rev-  
38 ocaion effected hereunder shall remain in effect until such person:

39 (A) Has filed satisfactory proof of financial security with the director  
40 as required by subsection (d) of K.S.A. 40-3118 and amendments thereto;

41 (B) has paid the reinstatement fee herein prescribed; and

42 (C) (i) has been released from liability;

43 (ii) is a party to an action to determine liability pursuant to which the

1 court temporarily stays such suspension pending final disposition of such  
2 action;

3 (iii) has entered into an agreement for the payment of damages; or  
4 (iv) has been finally adjudicated not to be liable in respect to such  
5 accident and evidence of any such fact has been filed with the director.

6 (3) The reinstatement fee shall be \$100 except that if the registration  
7 of a motor vehicle of any owner is revoked within one year following a  
8 prior revocation of the registration of a motor vehicle of such owner under  
9 the provisions of this act such fee shall be \$300.

10 (k) (1) Whenever any person whose license has been suspended or  
11 revoked pursuant to this section is involved in an accident and has entered  
12 into an agreement with any driver, or such driver's insurer, who has been  
13 damaged or whose vehicle has been damaged to pay for such damage and  
14 such person defaults on payments under such agreement, the driver or  
15 the driver's insurer, as appropriate, shall notify the director within 60 days  
16 of the date of default.

17 (2) Upon receipt of the notice of default, the director shall immedi-  
18 ately suspend such person's license and registration. If such person is a  
19 nonresident, the director shall immediately suspend such nonresident's  
20 privilege to operate a motor vehicle in this state.

21 (3) Except as provided in paragraph (4), such person's driver's li-  
22 cense, registration and nonresident's operating privilege shall remain so  
23 suspended and shall not be renewed, nor shall any such license or reg-  
24 istration be thereafter issued in the name of such person, including any  
25 such person not previously licensed, unless and until:

26 (A) The director receives notice payments under the agreement re-  
27 ferred to in paragraph (1) have been resumed and that payments under  
28 such agreement are no longer in default;

29 (B) such person has filed satisfactory proof of financial responsibility  
30 with the director as required by subsection (d) of K.S.A. 40-3118 and  
31 amendments thereto; and

32 (C) the reinstatement fee required by subsection (j) has been paid.

33 (4) Upon due notice to the director that the conditions of paragraph  
34 (3) have been fulfilled, such person may obtain from the director an order  
35 restoring such person's driver's license, registration and nonresident's op-  
36 erating privilege to operate a motor vehicle in this state conditioned upon  
37 such person's continued compliance with the agreement referred to in  
38 paragraph (1).

39 (5) In the event such person fails to make any further payment under  
40 the agreement referred to in paragraph (1) when such payment is due,  
41 the director, upon receipt of notice of such default, shall immediately  
42 suspend the license, registration or nonresident's operating privilege of  
43 such person until all payments have been made under the agreement



1 referred to in paragraph (1). No suspension of such person's license, reg-  
2 istration or nonresident's privilege to operate a motor vehicle in this state  
3 shall be reinstated pursuant to paragraph (4).

4 (l) The provisions of this section shall not apply to motor carriers of  
5 property or passengers regulated by the corporation commission of the  
6 state of Kansas.

7 (m) The provisions of subsection (d) shall not apply to vehicle dealers,  
8 as defined in K.S.A. 8-2401, and amendments thereto, for vehicles being  
9 offered for sale by such dealers.

10 Sec. 5. K.S.A. 2009 Supp. 40-3104 is hereby repealed.

11 Sec. 6. This act shall take effect and be in force from and after its  
12 publication in the statute book.