

SESSION OF 2006

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2938

As Amended by House Committee of the Whole

Brief*

HB 2938 would amend the crimes of driving when the person's driving privileges have been canceled, suspended or revoked, and the habitual violator law, to provide that third and subsequent convictions shall be off grid nonperson felonies. The bill also would amend the Kansas Automobile Injury Reparations Act dealing with uninsured motorists and the reinstatement of their drivers' licenses after being involved in an accident.

A person convicted of a third or subsequent offense driving while suspended or revoked and for violation of the habitual violation law shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,500 nor more than \$2,500. The person shall not be eligible for release on probation, suspension, or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment may be served in a work release program only after the person has served 48 consecutive hours' imprisonment, provided the work release program requires the person to return to confinement at the end of each day. The court may place the person under a house arrest program to serve the remainder of the minimum sentence only after the person has served 48 consecutive hours imprisonment.

The bill also would amend the Kansas Automobile Injury Reparations Act to include provisions for the suspension or revocation of a driver's license for nonpayment of damages and requirements for payment and restoration of an individual's driver's license or driving privileges. Specifically, the bill would amend current law requirements to allow a license to remain suspended or revoked until the individual has:

- Filed satisfactory proof of financial security with the Director of Vehicles (director) as required by subsection (d) of KSA 40-3118;

*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>

- Paid the reinstatement fee; and
- Been released from liability, as a party to an action to determine liability pursuant to which the court temporarily stays such suspension pending the final disposition of the action; has entered into an agreement for the payment of damages, or has been finally adjudicated not to be liable in respect to the accident and evidence of any such fact has been filed with the director.

The bill also would provide that the reinstatement fee is to be \$100, with an exception that if the registration of the motor vehicle owner is revoked within one year following a prior revocation of the owner's registration, the fee would be \$300.

The bill also would include provisions that whenever an individual involved in an accident whose license has been suspended or revoked pursuant to this act and has entered into an agreement with any driver, or the driver's insurer, who has been damaged or whose vehicle has been damaged to pay for such damage and such person defaults on payments under the agreement, the driver or the driver's insurer is to notify the director within 60 days of the default date. Upon the receipt of the default notice, the director would be required to immediately suspend the person's license and registration. If the person is a nonresident, the director is to immediately suspend the person's nonresident privilege to operate a motor vehicle in this state.

The person's driver's license, registration, and the nonresident's operating privilege would remain suspended and not renewed, and no license or registration would be issued in the name of this individual, including any person not previously licensed, unless and until:

- The director receives notice that payments under the agreement between the drivers, and if applicable, the driver's insurer, have been resumed and the payments are no longer in default;
- Such person has filed satisfactory proof of financial responsibility; and
- The reinstatement fee has been paid.

Upon the due notice to the director that these conditions have been met, the person would be permitted to obtain, from the director, an order restoring the person's driver's license, registration and nonresident's operating privilege to operate a motor vehicle in Kansas. The restoration would be conditional upon the person's continued

compliance with the agreement.

In the event the person fails to make any further payment under the agreement when such payment is due, the director upon receipt of the default notice, is to immediately suspend the license, registration or nonresident's operating privilege of the person until all payments have been made under the agreement.

Background

HB 2938, as introduced, was supported by Representative Shari Weber and the Douglas County Sheriff who also spoke on behalf of the Kansas Sheriff's Association.

The fiscal note states that the number of "journal entries of sentencing" received and recorded by the Kansas Sentencing Commission's staff would be increased because the bill creates a new felony. The Commission would be required to record each felony into the database of statewide felony offenses. Depending on the increase of felony cases received, the agency might require at least \$40,468 but not more than \$60,437 from the State General Fund in FY 2007. The \$40,468 estimate represents the cost of 0.50 FTE Research Analyst I position at \$19,968 and \$20,500 for other operating expenditures. The agency does not have enough information to estimate the increase in felonies. If the increase is not great enough to warrant the addition of either a part-time or full-time position, then no additional funds would be needed.

The Department of Revenue states that it would require two weeks of in-house programming to make modifications to the Kansas Drivers License System. However, these costs would be absorbed by the Department.

The House Committee of the Whole added provisions of Sub. for HB 2690 into HB 2938.

HB 2690 was introduced by the House Committee on Insurance at the request of Representative Stephanie Sharp who indicated that the bill would help contain insurance costs and encourage drivers to stay insured in Kansas. An insurance agent also testified to the costs associated with a claim involving an uninsured motorist who is at fault. The bill was supported by the State Farm Insurance Companies. The Department of Revenue offered neutral testimony on the bill and discussed proposed changes to the bill to address its concerns about

a potential revolving door effect on re-suspensions of drivers' licenses.

The House Committee on Insurance recommended the introduction of a substitute bill to remove provisions that would restore or penalize judgment debtors based on the ability to settle judgment payments. The amendments in the substitute bill do not address the courts and judgments and instead apply to agreements between drivers and drivers' insurers.

The fiscal impact for the courts provided in the fiscal note on the introduced version of the bill would not apply to the substitute bill, as the substitute does not require court oversight. Some provisions for fiscal impact for the Department of Revenue and the State Highway Fund appear to apply to the substitute. The fiscal note indicates that the Department of Revenue would require two weeks of in-house computer programming to add new suspension codes to the Kansas Driver's License System. The bill could have a negligible loss to the revenues of the State Highway Fund (SHF) because the bill would require the suspension of driving privileges and vehicle registration. However, the agency has no data to estimate the volume of paperwork this bill could produce or the effect to SHF revenues. The fiscal note also indicates that if the combined effect of implementing this bill and other enacted legislation exceeds the Department's programming resources, or if the time 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 accounted for in *The FY 2007 Governor's Budget Report*.