

SESSION OF 2010

**CONFERENCE COMMITTEE REPORT BRIEF  
HOUSE SUBSTITUTE FOR SENATE BILL NO. 300**

As Agreed to May 4, 2010

**Brief\***

House Sub. for SB 300 would amend Kansas law regarding certain aspects of traffic regulation and would enact two new traffic infractions: texting while driving and covering a license plate.

*Covering a License Plate*

The bill would prohibit displaying a vehicle license plate that is covered with any material that affects the plate's visibility or reflectivity. The fine for violation would be \$60. (Sections 1 and 6)

*Prohibiting Texting While Driving*

The bill would prohibit a person who is operating a motor vehicle on a public road or highway from "texting," using a wireless communications device to write, send, or read a written communication. The bill would define "wireless communications device" to include any type of device that sends or receives messages but to exclude voice-operated devices.

The bill would include these exceptions to the ban:

- Law enforcement officers or emergency service personnel acting within the course and scope of their employment;
- When the motor vehicle is stopped off the regular traveled portion of the roadway;

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- Using the wireless communications device to make or receive a phone call; receive an emergency, traffic, or weather alert message; or receive a message related to the operation or navigation of the vehicle;
- To report current or ongoing illegal activity to law enforcement;
- To prevent imminent injury to a person or property; and
- To relay information between a transit or for-hire operator and the operator's dispatcher, if the device is permanently affixed to the motor vehicle.

Law enforcement officers would be required to issue a warning citation for violation until January 1, 2011.

The fine for unlawful text messaging would be \$60. (Sections 2 and 6)

#### *Protective Equipment for Minors on Motorcycles*

The bill would extend responsibility for ensuring those under the age of 18 wear protective equipment while riding on motorcycles and motorized bicycles. The bill would make it a violation of Kansas law to allow or permit any person under the age of 18 to operate or ride on a motorcycle or motorized bicycle without a helmet or on a motorcycle without eye protection.

Current law states that no one under the age of 18 may operate or ride on a motorcycle or motorized bicycle without wearing an approved helmet, and all who operate motorcycles must wear eye protection. (Section 3)

#### *Window Tinting in Law Enforcement Vehicles*

The bill would exempt a clearly identified law enforcement motor vehicle from restrictions that do not allow a motor vehicle

to have one-way glass or any sun screening device that, in conjunction with safety glazing materials, restrict the total light transmission to less than 35 percent. (Section 4)

#### *School Bus Operation*

The bill would extend the period from 20 to 25 years during which a school bus could be operated if the bus meets requirements for design, lighting equipment, distinctive markings, special warning devices, and other equipment that were in place at the time the bus was manufactured. (Section 5)

#### **Conference Committee Action**

The Conference Committee agreed to consolidate provisions relating to traffic regulation into House Sub. for SB 300 and took the following actions:

- Removed provisions to enact a Boy Scouts of America license plate.
- Removed provisions to enact a Vietnam War veteran license plate and allow the veteran's survivors to retain that plate.
- Removed a provision that would have, by removing an exemption, required those who receive a "Support Kansas Arts" license plate to pay a \$40 personalized license plate fee in addition to other fees applicable to that license plate.
- Removed provisions to enact an "I'm Pet Friendly" license plate.
- Added provisions to prohibit texting while driving. These provisions are those of HB 2439 as amended by the House Committee on Transportation, with changes to include exceptions for receiving an emergency, traffic, or

weather alert message and for receiving a message related to the operation or navigation of the motor vehicle. The Conference Committee also reduced the fine from \$100 to \$60 and moved up the ending date of the time during which a law enforcement officer will be required to issue a warning citation, from July 1, 2011, to January 1, 2011.

- Added provisions to extend responsibility for ensuring minors riding motorcycles wear protective equipment and eye protection, from SB 367 as amended by the Senate Committee on Transportation.
- Added provisions regarding window tinting from SB 408 as amended by the Senate Federal and State Affairs Committee. The Conference Committee further amended these provisions to remove the term “safety glazing materials” and replace it with references to vehicle windows as necessary.
- Added provisions from HB 2486 as introduced regarding school bus operation.
- Revised the changes to the uniform fine schedule to reflect the provisions in this version of the bill.

## **Background**

The original SB 300 would have increased the single-trip permit fee charged by the Kansas Department of Transportation for certain oversize or overweight vehicles and enacted new fees for certain types of large loads. Those provisions were enacted in 2009 in House Substitute for SB 145. House Sub. for SB 300 as amended by the House Committee of the Whole included the provisions regarding license plates and their fees (including the “Support Kansas Arts” provision that was removed by the Conference Committee) plus provisions regarding coverings over license plates that were removed by the Conference Committee.

Background information on each type of included provision is included below.

*Covering License Plate Provisions*

Representative Lisa Benlon testified as a proponent of HB 2623, as did a representative of the Kansas Highway Patrol. They said that witnesses to crimes and law enforcement officers often are unable to read license plate numbers when plates are covered with materials that would be prohibited with this bill. There was no other testimony on the bill. The House Committee on Transportation amended HB 2623 to clarify which types of coverings would be prohibited. Those amendments are included in this bill.

*Prohibiting Texting While Driving Provisions*

These provisions are those of HB 2439, with the exceptions noted above under Conference Committee Action.

Representatives of AT&T Kansas; Kansas Department of Transportation; AAA Allied Group; League of Kansas Municipalities; Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and Kansas Peace Officers Association; Alliance of Automobile Manufacturers; Ford Motor Company; Kansas Department of Health and Environment; and Kansas Highway Patrol testified in support of HB 2439. Written proponent testimony was submitted by representatives of the Kansas County Highway Association and Farmers Insurance Group. Among the points made by proponents are that researchers have found texting to significantly increase the probability of a crash, that the bill would create law that would be enforceable, and that the law could save annually as many as 29 lives and avoid as many as 4,100 injury crashes in Kansas. There was no testimony opposing the bill.

The House Committee on Transportation amended the bill to specify that a “wireless communication device” does not include a voice-operated device, to specify that the bill’s provisions would not apply to law enforcement officers and

emergency service personnel acting within the course and scope of their employment, and to make a technical correction. HB 2439 was stricken at turn-around.

A separate texting bill, SB 351, passed the Senate during the 2010 Session, and those provisions also are included in Senate Sub. for HB 2437. HB 2660 incorporates exclusions for emergency, traffic, and weather messages and for messages related to operation of the vehicle that are included in SB 351 and Senate Sub. for HB 2437. SB 351 and Senate Sub. for HB 2437 include a fine of \$100 and penalties that are not included in HB 2660: those bills specify that a second or subsequent conviction would be a class B misdemeanor, a person convicted of this crime who causes serious injury to another person as a result of the violation would be guilty of a class A misdemeanor, and that, in addition to any other penalty, the court could suspend the person's driving privileges for 90 days. SB 351 and Senate Sub. for HB 2437 also include no warning period.

The graduated driver's license law enacted in 2009 prohibits those with instruction permits, farm permits, and restricted licenses from operating wireless communication devices except to report illegal activity or to summon emergency help. (These requirements are codified at KSA 2009 Supp. 8-2,101(b)(4), 8-2,101(e), and 8-296(e).) That law's definition of "wireless communication device," codified at KSA 2009 Supp. 8-234a(a)(6), is the same as that proposed in this bill except that this bill would exclude voice-operated devices and so permit their use by those with full driver's licenses.

#### *Protective Equipment for Minors on Motorcycles Provisions*

The bill includes the contents of SB 367 as amended by the Senate Committee on Transportation. Representatives of the Topeka Police Department and Kansas Action for Children presented testimony in support of SB 367. Written testimony supporting the bill was received from a representative of AAA Kansas. There was no testimony in opposition to the bill. The Committee amended SB 367 to include the provisions

regarding eye protection for passengers who are younger than 18. The fine for violation of KSA 8-1598, which would be amended by this bill, is \$30, not including court costs.

#### *Window Tinting in Law Enforcement Vehicles Provisions*

The bill includes the contents of SB 579. Proponents of SB 579 before the Senate Committee on Federal and State Affairs included a representative of the Kansas Association of Chiefs of Police, the Kansas Sheriffs Association, and the Kansas Peace Officers Association. An officer of the Kansas Highway Patrol testified in support of the bill. No opponents testified on the bill. The Senate Committee on Federal and State Affairs amended the bill to require exempt law enforcement vehicles to be clearly marked.

#### *School Bus Operation Provisions*

The provisions in this bill are those of HB 2486 as introduced; they also are in House Sub. for SB 293. Those appearing in support of the original HB 2486 were Representative Pat George, a representative of the Kansas Association of School Boards, and two school district superintendents. Written proponent testimony was received from a school district transportation manager, two superintendents, and the executive director of United School Administrators of Kansas. Proponent conferees said the bill would allow districts to save money. Several conferees stated that school buses annually are required to pass both mechanical and Highway Patrol inspections, and that the inspection requirement would not change. (The inspection requirement is contained in Kansas Administrative Regulation 91-38-5.) The executive director of the Kansas State Pupil Transportation Association testified in opposition to the bill. She stated that the bill would exempt some buses, for an additional five years, from adding safety equipment including increased emergency exits, back-up warning alarms, and antilock brakes. The Senate Committee on Transportation heard testimony on SB 538, a bill identical to HB 2486 as introduced.

### *Fiscal Note Information*

- Covering a license plate. According to the fiscal note for HB 2623, the bill has the potential for increasing litigation in the courts because of the new violation it would create. The Office of Judicial Administration indicates it could not estimate a precise fiscal effect on the court system but that any fiscal effect would most likely be accommodated with existing resources.
- Prohibiting texting while driving. According to the fiscal note on HB 2439 as introduced, the bill has the potential for increasing litigation in the courts because of the new violation it would create. The Office of Judicial Administration indicates it could not estimate a precise fiscal effect on the court system but that any fiscal effect would most likely be accommodated within existing resources.
- Protective equipment for minors on motorcycles. According to the fiscal note on the original SB 367, the Kansas Department of Transportation states it would include information on this topic in its public information and education programs, within existing resources.
- Window tinting in law enforcement vehicles. According to the fiscal note on the original SB 579, the Kansas Highway Patrol indicated enactment of these provisions would have no fiscal effect on agency operations and that troopers would have to be made aware of the exemption.
- School bus operation. The fiscal note provided by the Division of the Budget states that HB 2486 would have no fiscal effect on the Department of Education and that savings for school districts, because they would be required to acquire fewer vehicles, cannot be estimated.

license plate; texting; wireless device; message; motorcycle; helmet; window; window tint; school bus; fine; traffic regulation