

HOUSE BILL No. 2303

AN ACT concerning reinstatement fees; relating to driving under the influence fund; judicial branch nonjudicial salary adjustment fund; forensic laboratory and materials fee fund; community alcoholism and intoxication programs fund; juvenile detention facilities fund; interest thereon; amending K.S.A. 41-1126 and K.S.A. 2012 Supp. 8-241, 20-1a15, 28-176, 75-5660 and 79-4803 and repealing the existing sections.

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

Section 1. K.S.A. 2012 Supp. 8-241 is hereby amended to read as follows: 8-241. (a) Except as provided in K.S.A. 8-2,125 through 8-2,142, and amendments thereto, any person licensed to operate a motor vehicle in this state shall submit to an examination whenever: (1) The division of vehicles has good cause to believe that such person is incompetent or otherwise not qualified to be licensed; or (2) the division of vehicles has suspended such person's license pursuant to K.S.A. 8-1014, and amendments thereto, as the result of a test refusal, test failure or conviction for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of a city ordinance or county resolution prohibiting the acts prohibited by K.S.A. 8-1567, and amendments thereto, except that no person shall have to submit to and successfully complete an examination more than once as the result of separate suspensions arising out of the same occurrence.

(b) When a person is required to submit to an examination pursuant to subsection (a)(1), the fee for such examination shall be in the amount provided by K.S.A. 8-240, and amendments thereto. When a person is required to submit to an examination pursuant to subsection (a)(2), the fee for such examination shall be \$25. In addition, any person required to submit to an examination pursuant to subsection (a)(2): (1) As the result of a test failure, a conviction for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of a city ordinance or county resolution prohibiting the acts prohibited by K.S.A. 8-1567, and amendments thereto, shall be required, at the time of examination, to pay a reinstatement fee of ~~\$100~~-\$200 after the first occurrence, ~~\$200~~-\$400 after the second occurrence, ~~\$300~~-\$600 after the third occurrence and ~~\$400~~-\$800 after the fourth or subsequent occurrence; and (2) as a result of a test refusal, a conviction for a violation of K.S.A. 2012 Supp. 8-1025, and amendments thereto, or a violation of a city ordinance or county resolution prohibiting the acts prohibited by K.S.A. 2012 Supp. 8-1025, and amendments thereto, shall be required, at the time of examination, to pay a reinstatement fee of ~~\$400~~-\$600 after the first occurrence, ~~\$600~~-\$900 after the second occurrence, ~~\$800~~-\$1,200 after the third occurrence and ~~\$1,000~~-\$1,500 after the fourth or subsequent occurrence.

(1) All examination fees collected pursuant to this section shall be remitted to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount in the state treasury and credit 80% to the state highway fund and 20% shall be disposed of as provided in K.S.A. 8-267, and amendments thereto.

(2) *On and after July 1, 2013, through June 30, 2017*, all reinstatement fees collected pursuant to this section shall be remitted to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount in the state treasury and credit ~~50%~~ 26% to the community alcoholism and intoxication programs fund created pursuant to K.S.A. 41-1126, and amendments thereto, ~~20%~~ 12% to the juvenile detention facilities fund created by K.S.A. 79-4803, and amendments thereto, ~~20%~~ 12% to the forensic laboratory and materials fee fund ~~cited in~~ created by K.S.A. 28-176, and amendments thereto, ~~and 10%~~ 17% to the driving under the influence ~~equipment~~ fund created by K.S.A. 75-5660, and amendments thereto, *and 33% to the judicial branch nonjudicial salary adjustment fund created by K.S.A. 20-1a15, and amendments thereto.* Moneys credited to the forensic laboratory and materials fee fund as provided herein shall be used to supplement existing appropriations and shall not be used to supplant general fund appropriations to the Kansas bureau of investigation.

(3) *On and after July 1, 2017, all reinstatement fees collected pursuant to this section shall be remitted to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount in the state treasury and credit 35% to the community alcoholism and intoxication programs fund created pursuant to K.S.A. 41-1126, and amendments thereto, 20% to the juvenile detention facilities fund created by K.S.A. 79-4803, and amendments thereto, 20% to the forensic laboratory and materials fee fund created by K.S.A. 28-*

176, and amendments thereto, and 25% to the driving under the influence fund created by K.S.A. 75-5660, and amendments thereto. Moneys credited to the forensic laboratory and materials fee fund as provided herein shall be used to supplement existing appropriations and shall not be used to supplant general fund appropriations to the Kansas bureau of investigation.

(c) When an examination is required pursuant to subsection (a), at least five days' written notice of the examination shall be given to the licensee. The examination administered hereunder shall be at least equivalent to the examination required by subsection (e) of K.S.A. 8-247, and amendments thereto, with such additional tests as the division deems necessary. Upon the conclusion of such examination, the division shall take action as may be appropriate and may suspend or revoke the license of such person or permit the licensee to retain such license, or may issue a license subject to restrictions as permitted under K.S.A. 8-245, and amendments thereto.

(d) Refusal or neglect of the licensee to submit to an examination as required by this section shall be grounds for suspension or revocation of the license.

Sec. 2. K.S.A. 2012 Supp. 20-1a15 is hereby amended to read as follows: 20-1a15. (a) There is hereby established in the state treasury the judicial branch nonjudicial salary adjustment fund.

(b) All moneys credited to the judicial branch nonjudicial salary adjustment fund shall be used for compensation of nonjudicial officers and employees of the district courts, court of appeals and the supreme court and shall not be expended for compensation of judges or justices of the judicial branch. Moneys in the fund shall be used only to pay for that portion of the cost of salaries and wages of nonjudicial personnel of the judicial branch, including associated employer contributions, which shall not exceed the difference between the amount of expenditures that would be required under the judicial branch pay plan for nonjudicial personnel in effect prior to the effective date of this act and the amount of expenditures required under the judicial branch pay plan for nonjudicial personnel after the cost-of-living adjustments and the adjustments for upgrades in pay rates for nonjudicial personnel approved by the chief justice of the Kansas supreme court for fiscal year 2009. For fiscal years commencing on and after June 30, 2010, moneys in such fund shall be used only for the amount attributable to maintenance of the judicial branch pay plan for nonjudicial personnel for such adjustments and upgrades approved by the chief justice of the supreme court for fiscal year 2009.

(c) *On or before the 10<sup>th</sup> day of each month, the director of accounts and reports shall transfer from the state general fund to the judicial branch nonjudicial salary adjustment fund interest earnings based on:*

(1) *The average daily balance of moneys in the judicial branch nonjudicial salary adjustment fund for the preceding month; and*

(2) *the net earnings rate of the pooled money investment portfolio for the preceding month.*

~~(e)~~(d) All expenditures from the judicial branch nonjudicial salary adjustment fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to payrolls approved by the chief justice of the Kansas supreme court or by a person or persons designated by the chief justice.

Sec. 3. K.S.A. 2012 Supp. 28-176 is hereby amended to read as follows: 28-176. (a) The court shall order any person convicted or diverted, or adjudicated or diverted under a preadjudication program pursuant to K.S.A. 22-2906 et seq., K.S.A. 2012 Supp. 38-2346 et seq., or 12-4414, and amendments thereto, of a misdemeanor or felony contained in chapters 21, 41 or 65 of the Kansas Statutes Annotated, and amendments thereto, or a violation of K.S.A. 8-2,144 or 8-1567, and amendments thereto, or a violation of a municipal ordinance or county resolution prohibiting the acts prohibited by such statutes, unless the municipality or county has an agreement with the laboratory providing services that sets a restitution amount to be paid by the person that is directly related to the cost of laboratory services, to pay a separate court cost of \$400 for every individual offense if forensic science or laboratory services or forensic computer examination services are provided, in connection with the investigation, by:

- (1) The Kansas bureau of investigation;
  - (2) the Sedgwick county regional forensic science center;
  - (3) the Johnson county sheriff's laboratory;
  - (4) the heart of America regional computer forensics laboratory; or
  - (5) the Wichita-Sedgwick county computer forensics crimes unit.
- (b) Such fees shall be in addition to and not in substitution for any and all fines and penalties otherwise provided for by law for such offense.
- (c) The court shall not lessen or waive such fees unless the court has determined such person is indigent and the basis for the court's determination is reflected in the court's order.
- (d) Such fees shall be deposited into the designated fund of the laboratory or forensic science or computer center that provided such services. Fees for services provided by:
- (1) The Kansas bureau of investigation shall be deposited in the Kansas bureau of investigation forensic laboratory and materials fee fund *which is hereby created*;
  - (2) the Sedgwick county regional forensic science center shall be deposited in the Sedgwick county general fund;
  - (3) the Johnson county sheriff's laboratory shall be deposited in the Johnson county sheriff's laboratory analysis fee fund;
  - (4) the heart of America regional computer forensics laboratory shall be deposited in the general treasury account maintained by such laboratory; and
  - (5) the Wichita-Sedgwick county computer forensic crimes unit shall be retained by the Sedgwick county sheriff. All funds retained by the sheriff pursuant to the provisions of this section shall be credited to a special fund of the sheriff's office.
- (e) Disbursements from the funds and accounts described in subsection (d) shall be made for the following:
- (1) Forensic science or laboratory services;
  - (2) forensic computer examination services;
  - (3) purchase and maintenance of laboratory equipment and supplies;
  - (4) education, training and scientific development of personnel; and
  - (5) from the Kansas bureau of investigation forensic laboratory and materials fee fund, the destruction of seized property and chemicals as described in K.S.A. 22-2512 and 60-4117, and amendments thereto.
- (f) *On or before the 10<sup>th</sup> day of each month, the director of accounts and reports shall transfer from the state general fund to the Kansas bureau of investigation forensic laboratory and materials fee fund interest earnings based on:*
- (1) *The average daily balance of moneys in the Kansas bureau of investigation forensic laboratory and materials fee fund for the preceding month; and*
  - (2) *the net earnings rate of the pooled money investment portfolio for the preceding month.*
- (g) *All expenditures from the Kansas bureau of investigation forensic laboratory and materials fee fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or by a person or persons designated by the attorney general.*

Sec. 4. K.S.A. 41-1126 is hereby amended to read as follows: 41-1126.

- (a) In addition to other purposes for which expenditures may be made from the other state fees fund of the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services, moneys in the other state fees fund of the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services shall be used by the secretary of ~~social and rehabilitation~~ *for aging and disability* services to provide financial assistance to community-based alcoholism and intoxication treatment programs for the following purposes: (1) Matching money under title XX of the federal social security act to purchase treatment services from approved treatment facilities; (2) providing start-up or expansion grants for halfway houses or rehabilitation centers for alcoholics; (3) purchasing services from approved treatment facilities for persons who are needy but who are not eligible for assistance under either title XIX or title XX of the federal social security act, and administrative costs of the alcohol and drug abuse section which shall not exceed 10% of the total moneys in the community alcoholism and intoxication programs fund; and

(4) assisting to develop programs for prevention, education, early identification and facility assistance and review team.

(b) No state alcohol treatment program at ~~Topka state hospital~~, Oswatomie state hospital, Rainbow mental health facility or Larned state hospital shall receive any moneys under the provisions of subsection (a) of this section.

(c) *There is hereby established in the state treasury the community alcoholism and intoxication programs fund.*

(d) *On or before the 10<sup>th</sup> day of each month, the director of accounts and reports shall transfer from the state general fund to the community alcoholism and intoxication programs fund interest earnings based on:*

(1) *The average daily balance of moneys in the community alcoholism and intoxication programs fund for the preceding month; and*

(2) *the net earnings rate of the pooled money investment portfolio for the preceding month.*

(e) *All expenditures from the community alcoholism and intoxication programs fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary for aging and disability services or the secretary's designee.*

Sec. 5. K.S.A. 2012 Supp. 75-5660 is hereby amended to read as follows: 75-5660. (a) There is hereby established in the state treasury the driving under the influence ~~equipment~~ fund.

(b) Moneys in the driving under the influence ~~equipment~~ fund shall be used by the department of health and environment only for the purposes of: (1) Purchasing breath alcohol concentration testing equipment, including, but not limited to, laboratory enhancement ~~and~~; (2) for purposes relating to presentation of evidence in prosecution in cases involving driving under the influence, ~~or~~; and (3) establishing and maintaining drivers' safety and breath alcohol programs.

(c) *On or before the 10<sup>th</sup> day of each month, the director of accounts and reports shall transfer from the state general fund to the driving under the influence fund interest earnings based on:*

(1) *The average daily balance of moneys in the driving under the influence fund for the preceding month; and*

(2) *the net earnings rate of the pooled money investment portfolio for the preceding month.*

(d) All expenditures from the driving under the influence ~~equipment~~ fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment or the secretary's designee.

(e) *On the effective date of this act:*

(1) *The director of accounts and reports shall transfer all moneys in the driving under the influence equipment fund to the driving under the influence fund;*

(2) *all liabilities of the driving under the influence equipment fund existing prior to that date are hereby imposed on the driving under the influence fund; and*

(3) *the driving under the influence equipment fund is hereby abolished.*

Sec. 6. K.S.A. 2012 Supp. 79-4803 is hereby amended to read as follows: 79-4803. (a) After the transfer of moneys pursuant to K.S.A. 2012 Supp. 79-4806, and amendments thereto:

(1) An amount equal to 10% of the balance of all moneys credited to the state gaming revenues fund shall be transferred and credited to the correctional institutions building fund created pursuant to K.S.A. 76-6b09, and amendments thereto, to be appropriated by the legislature for the use and benefit of state correctional institutions as provided in K.S.A. 76-6b09, and amendments thereto; and

(2) an amount equal to 5% of the balance of all moneys credited to the state gaming revenues fund shall be transferred and credited to the juvenile detention facilities fund.

(b) There is hereby created in the state treasury the juvenile detention facilities fund which shall be administered by the commissioner of juvenile justice. The Kansas advisory group on juvenile justice and delinquency prevention shall review and make recommendations concerning

the administration of the fund. All expenditures from the juvenile detention facilities fund shall be for the retirement of debt of facilities for the detention of juveniles; or for the construction, renovation, remodeling or operational costs of facilities for the detention of juveniles in accordance with a grant program which shall be established with grant criteria designed to facilitate the expeditious award and payment of grants for the purposes for which the moneys are intended. "Operational costs" shall not be limited to any per capita reimbursement by the commissioner of juvenile justice for juveniles under the supervision and custody of the commissioner but shall include payments to counties as and for their costs of operating the facility. The commissioner of juvenile justice shall make grants of the moneys credited to the juvenile detention facilities fund for such purposes to counties in accordance with such grant program. All expenditures from the juvenile detention facilities fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the commissioner of juvenile justice or the commissioner's designee.

(c) *On or before the 10<sup>th</sup> day of each month, the director of accounts and reports shall transfer from the state general fund to the juvenile detention facilities fund interest earnings based on:*

(1) *The average daily balance of moneys in the juvenile detention facilities fund for the preceding month; and*

(2) *the net earnings rate of the pooled money investment portfolio for the preceding month.*

Sec. 7. K.S.A. 41-1126 and K.S.A. 2012 Supp. 8-241, 20-1a15, 28-176, 75-5660 and 79-4803 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

\_\_\_\_\_  
HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE  
as amended \_\_\_\_\_

SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*