



STATE OF KANSAS

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July 5, 1985

ATTORNEY GENERAL OPINION NO. 85- 76

Howard Schwartz  
Judicial Administrator  
Kansas Judicial Center, 3rd Floor  
301 West 10th  
Topeka, Kansas 66612

Re: Automobiles and Other Vehicles -- Act Regulating  
Traffic; Arrest and Issuance of Citations -- Failure  
to Comply With Citation; Suspension of License;  
Reinstatement Fee

Synopsis: As amended by chapter 78 of the 1985 Session Laws,  
K.S.A. 1984 Supp. 8-2110 provides that a district or  
a municipal court shall inform the division of  
vehicles of the Kansas Department of Revenue of any  
person who fails to appear following the issuance of a  
traffic citation. Upon receipt of such a report, the  
division shall suspend the license of the violator  
until notified of compliance by the court. The court  
shall also assess a reinstatement fee of \$25 for  
each charge on which the person failed to make  
satisfaction, with such fee in addition to any fine,  
costs or penalties which may be imposed. If a traffic  
citation contains more than one charge, the \$25 fee  
should be assessed on each of the charges, with the  
word "charge" being equivalent to "count." Cited  
herein: K.S.A. 1984 Supp. 8-2110, as amended by  
L. 1985, ch. 78.

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Dear Mr. Schwartz:

As Judicial Administrator for the Kansas Unified Judicial System, you request our opinion concerning an amendment to K.S.A. 1984 8-2110, L. 1985, ch. 78, which was effective on May 16, 1985. While there is no question about the basic intent of the amendments to the statute (i.e. the assessment of a reinstatement fee in those cases where failure to comply with traffic citations has led to suspension of an individual's license to drive), you inquire about the way in which the reinstatement fee should be imposed. Specifically, you ask whether the fee, which is set at \$25, should be imposed for each violation for which a person is charged, or whether a single suspension should result in the imposition of but one reinstatement fee.

As amended, K.S.A. 1984 8-2110 states as follows:

"(a) Failure to comply with a traffic citation means failure either to (1) appear before any district or municipal court in response to a traffic citation and pay in full any fine and court costs imposed or (2) otherwise comply with a traffic citation as provided in K.S.A. 1984 Supp. 8-2118 and amendments thereto. Failure to comply with a traffic citation is a misdemeanor, regardless of the disposition of the charge for which such citation was originally issued.

"(b) In addition to penalties of law applicable under subsection (a), when a person fails to comply with a traffic citation, except for illegal parking, standing or stopping, the district or municipal court in which the person should have complied with the citation shall mail notice to the person that if the person does not appear in district or municipal court or pay all fines, court costs and any penalties within 30 days from the date of mailing, the division of vehicles will be notified to suspend the person's driving privileges. Upon the person's failure to comply within such 30 days, the district or municipal court shall notify the division of vehicles. Upon receipt of a report of a failure to comply with a traffic citation

under this subsection, pursuant to K.S.A. 8-255, and amendments thereto, the division of vehicles shall notify the violator and suspend the license of the violator until satisfactory evidence of compliance with the terms of the traffic citation has been furnished the informing court. Upon such compliance the informing court shall notify the division of vehicles and the suspension or suspension action shall be terminated.

"(c) When the district or municipal court notifies the division of vehicles of a failure to comply with a traffic citation pursuant to subsection (b), the court shall assess a reinstatement fee of \$25 for each charge on which the person failed to make satisfaction regardless of the disposition of the charge for which such citation was originally issued. Such reinstatement fee shall be in addition to any fine, district or municipal court costs and other penalties. The court shall, at least monthly, remit all reinstatement fees to the state treasurer who shall credit such moneys to the motor vehicle operating fund."  
(Emphasis added.)

From the above, it may be observed that the amended statute provides only one suspension per traffic citation, regardless of how many charges may be included in the citation. Such a suspension is open-ended, and may be lifted only through compliance by the violator with the terms of the citation, which include appearance at a court date and, if so ordered, payment of a fine or compliance with any other penalty imposed by the court.

In determining whether the reinstatement fee should be imposed for every charge, even if a number of such charges exist in a single citation, we are guided by basic principles of statutory construction. As noted in Southeast Kansas Landowners Ass'n v. Kansas Turnpike Authority, 224 Kan. 357 (1978):

"The fundamental rule of statutory construction, to which all others are subordinate, is that the purpose and intent of the legislature governs when that intent can be ascertained from the statutes. Easom v. Farmers Insurance Co., 221 Kan. 415, Syl. 2,

560 P.2d 117 (1977); Thomas County Taxpayers Ass'n v. Finney, 223 Kan. 434, 573 P.2d 1073 (1978); Brinkmeyer v. City of Wichita, 223 Kan. 393, 573 P.2d 1044 (1978)." 224 Kan. at 367.

The court also has provided guidance in ascertaining the legislature's intent, and we believe the following statement of the court to be of relevance here:

"A primary rule for the construction of a statute is to find the legislative intent from its language, and where the language used is plain and unambiguous and also appropriate to the obvious purpose the court should follow the intent as expressed by the words used and is not warranted in looking beyond them in search of some other legislative purpose or extending the meaning beyond the plain terms of the Act. (Alter v. Johnson, 127 Kan. 443, 273 Pac. 474; Hand v. Board of Education, 198 Kan. 460, 426 P.2d 124; City of Overland Park v. Nikias, 209 Kan. 643, 498 P.2d 56; Hunter v. Haun, 210 Kan. 11, 499 P.2d 1087.)" City of Kiowa v. Central Telephone & Utilities Corporation, 213 Kan. 169, 176 (1973).

Of similar import is the court's pronouncement in Lakeview Gardens, Inc. v. State, ex rel. Schneider, 221 Kan. 211 (1976):

"[T]his court must ascertain and give effect to the intent of the legislature. In so doing we must consider the language of the statute; its words are to be understood in their plain and ordinary sense. (Hunter v. Haun, 210 Kan. 11, 13, 499 p.2d 471.) When a statute is plain and unambiguous this court must give effect to the intention of the legislature as expressed rather than determine what the law should or should not be. (Amoco Production Co. v. Arnold, Director of Taxation, 213 Kan. 636, 647, 518 P.2d 453; Jolly v. Kansas Public Employees Retirement System, 214 Kan. 200, 204, 519 P.2d 1391.)" 221 Kan. at 214.

With the above principles in mind, we have little difficulty in concluding that the reinstatement fee which is mentioned in subsection (c) of the statute should be implied for each charge contained in the citation rather than only once per citation. Had the legislature desired to assess only a single reinstatement fee, the language contained in subsection (c) which states "each charge on which the person failed to make satisfaction regardless of the disposition of the charge" would be surplusage, a result which is to be avoided if possible. American Fidelity Insurance Company v. Employers Mutual Casualty Company, 3 Kan.App.2d 245 (1979).

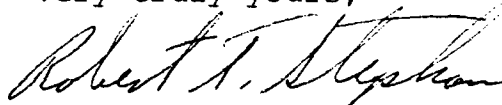
Further, we note that other jurisdictions have construed the term "charge" as being synonymous with the term "count." State v. Puckett, 39 N.M. 511, 50 P.2d 964, 965 (1935); State v. Thornton, 142 La. 797, 77 So. 634, 636 (1918). See also People v. Toney, 13 Cal. Rptr. 756 (Cal.App. 1961) and State v. Dye, 14 Ohio App.2d 7 237 N.E.2d 250 (1968). As a single indictment, complaint or citation may contain a number of counts or charges, we believe the legislature was specific in its intent to impose the reinstatement fee for each separate offense. While it is true that a license may be suspended only once, when the fee is viewed as a punitive measure, we believe the legislature intended to more strictly punish those individuals who fail to appear in response to a number of different counts, rather than a single count, which may be contained in a traffic citation.

Additionally, we have been informed that the division of vehicles has interpreted the 1985 amendments to K.S.A. 1984 Supp. 8-2110 as requiring the assessment of the \$25 fee for each charge contained in the traffic citation. While not conclusive, the interpretation given to a statute by the agency charged with its enforcement is entitled to weight when the statute is construed. Shawnee Mission Medical Center v. Kansas Department of Health & Environment, 235 Kan. 983 (1984).

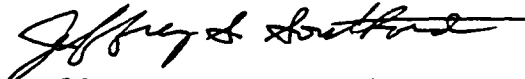
In conclusion, as amended by chapter 78 of the 1985 Session Laws, K.S.A. 1984 Supp. 8-2110 provides that a district or a municipal court shall inform the division of vehicles of the Kansas Department of Revenue of any person who fails to appear following the issuance of a traffic citation. Upon receipt of such a report, the division shall suspend the license of the violator until notified of compliance by the court. The court shall also assess a reinstatement fee of \$25 for each charge on which the person failed to make satisfaction, with such fee in addition to any fine, costs or penalties which may be imposed. If a traffic citation contains more than one charge, the \$25 fee

should be assessed on each of the charges, with the word "charge" being equivalent to "count."

Very truly yours,



ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS

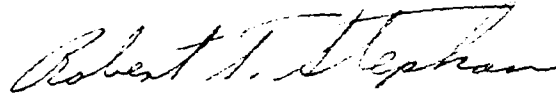


Jeffrey S. Southard  
Deputy Attorney General

RTS:JSS:crw

election" as used in K.S.A. 1984 Supp. 25-432(e) refers to an election other than the mail ballot election which is held on the same date. It does not refer to each individual question upon which a voter may exercise his or her choice. Therefore, K.S.A. 1984 Supp. 25-432(e) does not prohibit the submission of more than one question on a single mail ballot. This conclusion is, of course, subject to the understanding that compliance has been had with all other statutory provisions relating to the submission of specific questions to the voters.

Very truly yours,



ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS



Mary F. Carson  
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