



# KANSAS ATTORNEY GENERAL

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## DEREK SCHMIDT

# NEW CDL LAWS IN KANSAS

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# MASKING - THE BEGINNING

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# MASKING - THE TRAINING

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# MASKING - THE REALIZATION

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## Traffic Prosecutor

CDL knowledge

No DUI diversion

No Amendments for  
moving violations



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# MASKING - THE REALIZATION

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## TSRP

**Problem:** Educate and prevent DUI diversions for CDL Holders

**Solution:** Emails, training presentations



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# MASKING - THE REALIZATION

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## TSRP

Actually reading the  
Commercial Driver's  
License Act Statutes



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# MASKING - THE REALIZATION

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## TSRP

DUI diversion in Kansas meets the definition of conviction.

Nothing else matters

Nothing needed to fix



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# MASKING - THE MEETING

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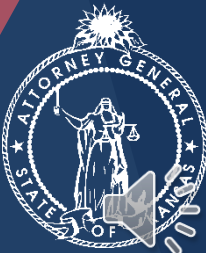


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# MASKING - THE OPINION

## AG OPINION 2022-2



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# MASKING - EXISTING LAW IN KANSAS

## DUI DIVERSION IN KANSAS

CDL Defendant charged with DUI & enters diversion.

**Diversion Agreement complies with Kansas Statutes**

**K.S.A. § 22-2909(c)(1)** - requires payment of fine equal to min. fine for 1<sup>st</sup> time DUI Offense

**K.S.A. § 8-1567(h)** - requires the court to report the diversion to the division of vehicles

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## **MASKING - EXISTING LAW IN KANSAS**

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**K.S.A. § 8-2115** - requires the court to prepare & forward an electronic abstract of a conviction or a forfeiture of bail/appearance bond w/in 10 days

**K.S.A. § 8-2115(e)** - requires the division of vehicles to record all diversions & convictions

**K.S.A. § 8-249(b)** - requires the division to file all accident reports and abstracts of court records of convictions received by it under the laws of the state

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## **MASKING - EXISTING LAW IN KANSAS**

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### **KDOR (Division of Vehicles)**

#### **K.S.A. § 8-2,142(a)(2)**

A driver is disqualified for not less than one year upon a first occurrence of a conviction for non-CMV DUI.  
(K.S.A. § 8-1567)

#### **K.S.A. § 8-2,142(j)**

After suspending, revoking or canceling a commercial driver's license, the division shall update its records to reflect that action within 10 days.



# MASKING - THE AFTERMATH

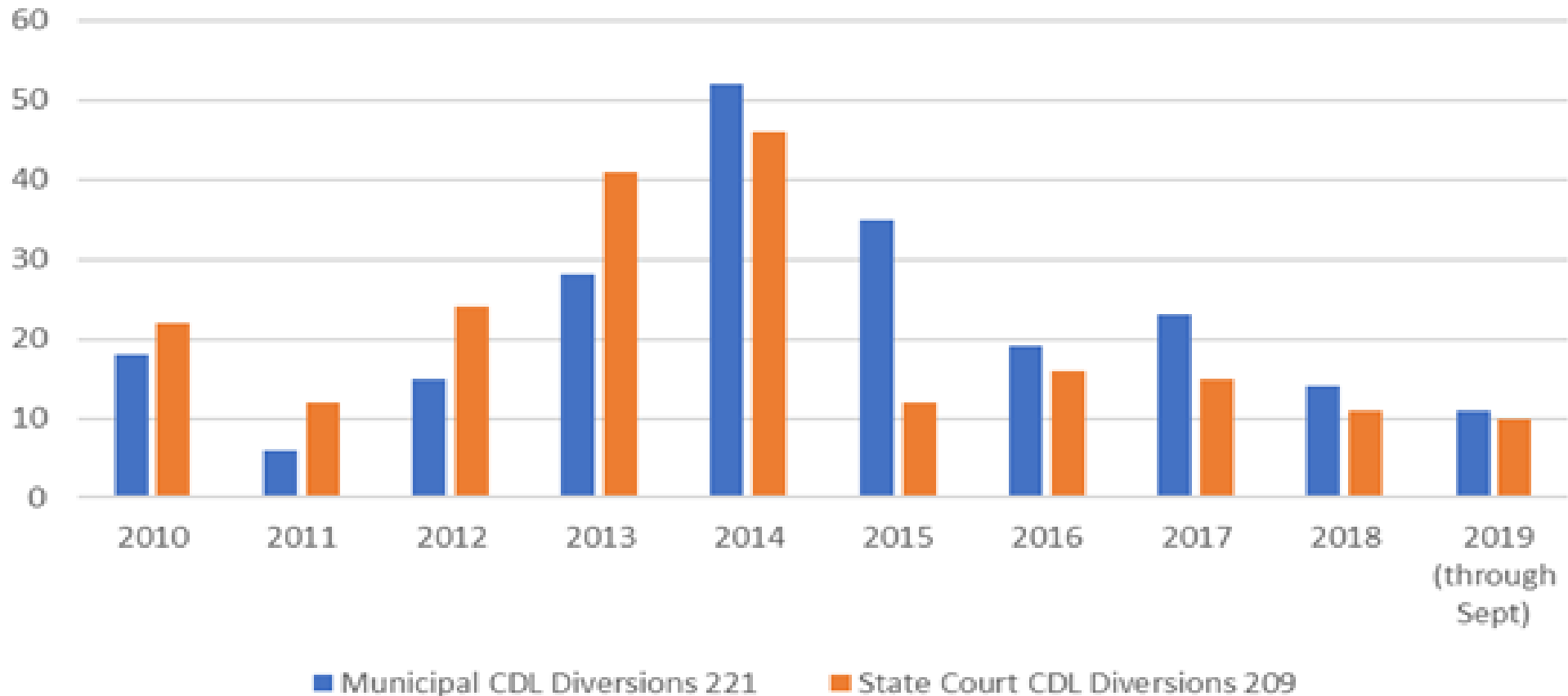


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# MASKING - DATA

## DUI Diversions Entered In Violation of K.S.A. 8-2,150 - CDL Holders



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## MASKING - STATE LAW - K.S.A. § 8-2,150

**Commercial driver's licenses; diversion agreements not allowed.**

(a) A driver or a holder of a commercial driver's license may not enter into a diversion agreement in lieu of further criminal proceedings that would prevent such person's conviction for any violation, in any type of motor vehicle, of a state or local traffic control law, except a parking violation, from appearing on the person's record, whether the person was convicted for an offense committed in the state where the person is licensed or another state.

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## MASKING - 49 C.F.R. § 384.226

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The State must not mask, defer imposition of judgment, or allow an individual to enter into a diversion program that would prevent a CLP or CDL holder's conviction for any violation, in any type of motor vehicle, of a State or local traffic control law (other than parking, vehicle weight, or vehicle defect violations) from appearing on the CDLIS driver record, whether the driver was convicted for an offense committed in the State where the driver is licensed or another State.

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# MASKING - ROLES

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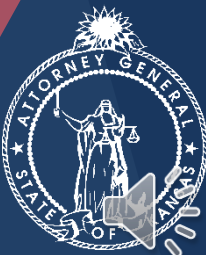
## KDOR (Division of Vehicles)

### **49 CFR § 384.225 - CDLIS Driver Recordkeeping**

(a) CLP or CDL holder. Post and maintain as part of the CDLIS driver record:

(1) All convictions, disqualifications and other licensing actions for violations of any State or local law relating to motor vehicle traffic control (other than parking, vehicle weight, or vehicle defect violations) committed in any type of vehicle.

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# MASKING - ROLES

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## KS Legislature

### **49 U.S. Code § 31311 (a)(17)**

The State shall adopt and enforce regulations prescribed by the Secretary under as<sup>2</sup> 31310(j) of this title.

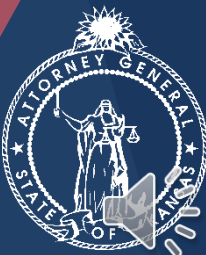
## Pending Legislation

### **2021 HB 2377**

**Approved by the Governor on April 19, 2022**

**Effective as of July 1, 2022**

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# MASKING - HB 2377

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## MASKING - HB 2377 - SECTION 10

(c) (1) A prosecuting attorney as defined in K.S.A. 22-2202, and amendments thereto, shall not mask or defer imposition of judgment or allow an individual to enter into a diversion program that would prevent a commercial learner's permit or commercial driver's license holder's conviction from appearing on the CDLIS driver record of any violation of a state or local traffic control law that occurred in any type of motor vehicle. The provisions of this subsection shall apply regardless of whether the driver was convicted for an offense committed in the state where the driver is licensed or in any another state.

(2) The provisions of this subsection shall not apply to parking, vehicle weight or vehicle defect violations.

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# HB 2377 - DIVERSION PROHIBITED

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## “PROBLEM” SOLVED!!

The amended language prohibits prosecutors from granting diversion for any violation under Chapter 8 of K.S.A. i.e.

### **ALL TRAFFIC VIOLATIONS**

(including parking, vehicle weight and vehicle defects)

If the defendant was a commercial driver's license holder at the time the violation was committed or at any subsequent time prior to being considered for diversion.



**MASKING**

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**THANK YOU!**

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