

Criminal & Traffic Laws of Kansas



Selected Criminal and Traffic
Statutes
2012



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Foreword

This book is intended as a convenient guide to the laws of this state. It is not a replacement for a full text version of the statutes. Although our intent is to provide a more compact form, the full text version is the ultimate authority.

Every attempt has been made to ensure the accuracy of the sections contained herein. However, no express or implied warranties or guarantees are made.

Not all laws are contained in this book.

Conventions Used in this Book

Notes such as “Note: See...” mean to refer to that section in this book if provided, or otherwise to refer to the full text version of the statutes for complete information.

Sections in this book which were amended or added by act of the latest session of the legislature denote that following the title of the section.

Amendments—Text amended in the current year is denoted by *bold italics*.

Added sections—Sections added by the latest legislative session have ADDED on the title line, AND are shown in *bold italics*.

Deletions—Material deleted by legislative change is generally not included or identified. If deletions are the only change in the sections, a note will indicate that.

Information included within brackets [] is added for clarification and is not an inherent part of the section itself.

Time Dependent Material

Contents of this book are applicable until the effective date of the next legislative enactments. In addition, material may be affected by existing or future appellate court decisions.

Sections affected in 2011

8-126	Definitions–General	<i>Amended</i>
8-235	Licenses required; motorized bicycle driver’s license	<i>Amended</i>
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8-1603	Accident involving damage to vehicle or property	<i>Repealed</i>
8-1604	Duty of driver to give certain information after accident	<i>Amended</i>
8-1605	Duty of driver upon damaging unattended vehicle or other property	<i>Amended</i>
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Chapter 8
Art. 1 thru 2

8-113 Identity of vehicles

Any person who shall destroy or cause to be destroyed, remove or cause to be removed, alter or deface, or cause to be altered or defaced, the engine number, identification number, or serial number of any motor vehicle in this state, or who shall change any identification number from one motor vehicle to another, or who shall give a wrong description in an application for the registration of any motor vehicle in this state, for the purpose of concealing or hiding the identity of such motor vehicle, or any person who shall copy, print, photostat or cause to be copied, printed or photostated for a fraudulent purpose or for the purpose of producing a fictitious title, alter or deface or cause to be altered or defaced or knowingly have in possession any fictitious, fraudulent, or counterfeit certificates of title, ownership certificates or registration receipts shall be deemed guilty of a felony, and upon conviction shall be punished by imprisonment in the custody of the secretary of corrections for a term of not less than one year nor more than five years.

8-116 Vehicle identification number offenses

- (a) It is unlawful to sell, barter or exchange any motor vehicle, trailer or semitrailer, the original vehicle identification number of which has been destroyed, removed, altered or defaced, except as contemplated by K.S.A. 8-116a, and amendments thereto, when no part of the motor vehicle, trailer or semitrailer has been stolen and a vehicle identification number has been assigned to the motor vehicle according to law. Violation of this subsection (a) is a severity level 10, nonperson felony.
 - (b) It is unlawful to knowingly own or have the custody or possession of a motor vehicle, trailer or semitrailer, the original vehicle identification number of which has been destroyed, removed, altered or defaced, except as contemplated by K.S.A. 8-116a, and amendments thereto, when no part of the motor vehicle, trailer or semitrailer has been stolen and a vehicle identification number has been assigned to the motor vehicle according to law. Violation of this subsection (b) is a class C misdemeanor.
 - (c) Any person who shall destroy, remove, alter or deface any vehicle identification number, except as contemplated by K.S.A. 8-116a, and amendments thereto, when no part of the motor vehicle, trailer or semitrailer has been stolen, is guilty of a severity level 10, nonperson felony.
 - (d) Every law enforcement officer in this state having knowledge of a motor vehicle, trailer or semitrailer the vehicle identification number of which has been destroyed, removed, altered or defaced shall seize and take possession of such motor vehicle, trailer or semitrailer, arrest the owner or custodian thereof and cause prosecution to be brought in a court of competent jurisdiction. The provisions of K.S.A. 22-2512, and amendments thereto, shall apply to any motor vehicle, trailer or semitrailer seized under this section.
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8-119 Penalties—Identity of vehicle offenses

The violation of any of the provisions of this act, except as otherwise herein provided, shall be deemed a misdemeanor, and shall be punishable by a fine not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than ninety days.

8-126 Definitions—Automobiles and other vehicles

(STO §1)

Amended 2011

The following words and phrases when used in this act shall have the meanings respectively ascribed to them herein:

- (a) “Vehicle” means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting electric personal assistive mobility devices or devices moved by human power or used exclusively upon stationary rails or tracks.
- (b) “Motor vehicle” means every vehicle, other than a motorized bicycle or a motorized wheelchair, which is self-propelled.
- (c) “Truck” means a motor vehicle which is used for the transportation or delivery of freight and merchandise or more than 10 passengers.

- (d) "Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term "tractor" as herein defined.
- (e) "Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle or load so drawn.
- (f) "Farm tractor" means every motor vehicle designed and used as a farm implement power unit operated with or without other attached farm implements in any manner consistent with the structural design of such power unit.
- (g) "Road tractor" means every motor vehicle designed and used for drawing other vehicles, and not so constructed as to carry any load thereon independently, or any part of the weight of a vehicle or load so drawn.
- (h) "Trailer" means every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.
- (i) "Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.
- (j) "Pole trailer" means any two-wheel vehicle used as a trailer with bolsters that support the load, and do not have a rack or body extending to the tractor drawing the load.
- (k) "Specially constructed vehicle" means any vehicle which shall not have been originally constructed under a distinctive name, make, model or type, or which, if originally otherwise constructed shall have been materially altered by the removal of essential parts, or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles.
- (l) "Foreign vehicle" means every motor vehicle, trailer or semitrailer which shall be brought into this state otherwise than in ordinary course of business by or through a manufacturer or dealer and which has not been registered in this state.
- (m) "Person" means every natural person, firm, partnership, association or corporation.
- (n) "Owner" means a person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or in the event a vehicle is subject to a lease of 30 days or more with an immediate right of possession vested in the lessee; or in the event a party having a security interest in a vehicle is entitled to possession, then such conditional vendee or lessee or secured party shall be deemed the owner for the purpose of this act.
- (o) "Nonresident" means every person who is not a resident of this state.
- (p) "Manufacturer" means every person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.
- (q) "New vehicle dealer" means every person actively engaged in the business of buying, selling or exchanging new motor vehicles, travel trailers, trailers or vehicles and who holds a dealer's contract therefor from a manufacturer or distributor and who has an established place of business in this state.
- (r) "Used vehicle dealer" means every person actively engaged in the business of buying, selling or exchanging used vehicles, and having an established place of business in this state and who does not hold a dealer's contract for the sale of new motor vehicles, travel trailers, trailers or vehicles.
- (s) "Highway" means every way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel. The term "highway" shall not be deemed to include a roadway or driveway upon grounds owned by private owners, colleges, universities or other institutions.
- (t) "Department" or "motor vehicle department" or "vehicle department" means the division of vehicles of the department of revenue, acting directly or through its duly authorized officers and agents. When acting on behalf of the department of revenue pursuant to this act, a county treasurer shall be deemed to be an agent of the state of Kansas.
- (u) "Commission" or "state highway commission" means the director of vehicles of the department of revenue.
- (v) "Division" means the division of vehicles of the department of revenue.
- (w) "Travel trailer" means every vehicle without motive power designed to be towed by a motor vehicle constructed primarily for recreational purposes.

- (x) "Passenger vehicle" means every motor vehicle, as herein defined, which is designed primarily to carry 10 or fewer passengers, and which is not used as a truck.
- (y) "Self-propelled farm implement" means every farm implement designed for specific use applications with its motive power unit permanently incorporated in its structural design.
- (z) "Farm trailer" means every trailer as defined in subsection (h) of this section and every semitrailer as defined in subsection (i) of this section, designed and used primarily as a farm vehicle.
- (aa) "Motorized bicycle" means every device having two tandem wheels or three wheels, which may be propelled by either human power or helper motor, or by both, and which has:
- (1) A motor which produces not more than 3.5 brake horsepower;
 - (2) a cylinder capacity of not more than 130 cubic centimeters;
 - (3) an automatic transmission; and
 - (4) the capability of a maximum design speed of no more than 30 miles per hour.
- (bb) "All-terrain vehicle" means any motorized nonhighway vehicle 50 inches or less in width, having a dry weight of 1,500 pounds or less, traveling on three or more nonhighway tires, having a seat designed to be straddled by the operator. As used in this subsection, nonhighway tire means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of 14 inches or less.
- (cc) "Implement of husbandry" means every vehicle designed or adapted and used exclusively for agricultural operations, including feedlots, and only incidentally moved or operated upon the highways. Such term shall include, but not be limited to:
- (1) A farm tractor;
 - (2) a self-propelled farm implement;
 - (3) a fertilizer spreader, nurse tank or truck permanently mounted with a spreader used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, regardless of ownership;
 - (4) a truck mounted with a fertilizer spreader used or manufactured principally to spread animal dung;
 - (5) a mixer-feed truck owned and used by a feedlot, as defined in K.S.A. 47-1501, and amendments thereto, and specially designed and used exclusively for dispensing food to livestock in such feedlot.
- (dd) "Motorized wheelchair" means any self-propelled vehicle designed specifically for use by a physically disabled person that is incapable of a speed in excess of 15 miles per hour.
- (ee) "Oil well servicing, oil well clean-out or oil well drilling machinery or equipment" means a vehicle constructed as a machine used exclusively for servicing, cleaning-out or drilling an oil well and consisting in general of a mast, an engine for power, a draw works and a chassis permanently constructed or assembled for one or more of those purposes. The passenger capacity of the cab of a vehicle shall not be considered in determining whether such vehicle is an oil well servicing, oil well clean-out or oil well drilling machinery or equipment.
- (ff) "Electric personal assistive mobility device" means a self-balancing two nontandem wheeled device, designed to transport only one person, with an electric propulsion system that limits the maximum speed of the device to 15 miles per hour or less.
- (gg) "Electronic certificate of title" means any electronic record of ownership, including any lien or liens that may be recorded, retained by the division in accordance with K.S.A. 8-135d, and amendments thereto.
- (hh) "Work-site utility vehicle" means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 135 inches, has an unladen weight, including fuel and fluids, of more than 800 pounds and is equipped with four or more low pressure tires, a steering wheel and bench or bucket-type seating allowing at least two people to sit side-by-side, and may be equipped with a bed or cargo box for hauling materials. "Work-site utility vehicle" does not include a micro utility truck or recreational off-highway vehicle.
- (ii) "Micro utility truck" means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 160 inches, has an unladen weight, including fuel and fluids, of more than 1,500 pounds, can exceed 40 miles per hour as originally manufactured and is manufactured

with a metal cab. "Micro utility truck" does not include a work-site utility vehicle or recreational off-highway vehicle.

(jj) "Golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, an unladen weight of not more than 1,800 pounds, is designed to be and is operated at not more than 25 miles per hour and is designed to carry not more than four persons including the driver.

(kk) "Recreational off-highway vehicle" means any motor vehicle 64 inches or less in width, having a dry weight of 2,000 pounds or less, traveling on four or more nonhighway tires, having a nonstraddle seat and steering wheel for steering control.

(ll) "Lightweight roadable vehicle" means a multipurpose motor vehicle that is allowed to be driven on public roadways and is required to be registered with, and flown under the direction of, the federal aviation administration.

8-126a Definitions—Number plates or tags

Whenever in this act or in any other law of this state relating to registration of motor vehicles any of the following words or terms are used: 1. Number plate or plates. 2. License number plates. 3. License number plate. 4. Number plate. 5. Number plates. 6. Registration number plate. 7. License tags. 8. Tags; or any other word, term or phrase of similar import or meaning is used in any such law, the same shall be construed to mean and include any plate, tag, token, marker or sign issued under the provisions of this act for the purpose of identifying vehicles registered under the provisions of the motor-vehicle registration laws of this state or otherwise carrying out the provisions of such laws.

8-127 Registration of vehicles operated in this state; exceptions; temporary operation of certain vehicles without registration

(a) Every owner of a motor vehicle, motorized bicycle, trailer or semitrailer intended to be operated upon any highway in this state, whether such owner is a resident of this state or another state, or such motor vehicle, motorized bicycle, trailer or semitrailer is based in this state or another state shall, before any such vehicle is operated in this state, apply for and obtain registration in this state under the provisions of K.S.A. 8-126 to 8-149, inclusive, and acts amendatory thereof or supplemental thereto, except as otherwise provided by law or by any interstate contract, agreement, arrangement or declaration made by the director of vehicles.

(b) Any truck or truck tractor bearing registration of a state other than Kansas which is engaged in intrastate movements within this state shall have Kansas registration, except such vehicles which are registered under the provisions of K.S.A. 8-1,101 to 8-1,123, inclusive, and amendments thereto, and except such vehicles as are entitled to engage in intrastate movements within this state under any interstate contract, agreement, consent, arrangement or declaration made by the director of vehicles.

(c) Whenever any person has a current motorcycle, motorized bicycle, passenger vehicle, truck or truck tractor registration and license plate for a vehicle which has been sold, traded or otherwise disposed of not later than 30 days, inclusive of weekends and holidays, after acquiring another motorcycle, motorized bicycle, passenger vehicle, truck or truck tractor to which the registration and license plate will be transferred and such person has complied with all of the conditions precedent to the transfer of the registration except having the registration transferred in the office of the county treasurer, such person may operate the motorcycle, motorized bicycle, passenger vehicle, truck or truck tractor acquired for a period of not to exceed 30 days, inclusive of weekends and holidays, after acquiring the same and pending transferral of registration and license plate in the office of the county treasurer by displaying the motorcycle license plate on the motorcycle acquired, the motorized bicycle license plate on the motorized bicycle acquired, the passenger vehicle license plate on the passenger vehicle acquired, or the truck or truck tractor license plate on the truck or truck tractor acquired. If the acquired vehicle is a new vehicle, such person also must carry and have in possession the assigned certificate of title or bill of sale when operating the acquired vehicle during said thirty-day period.

8-128 Registration of vehicles—Exceptions

(a) The following need not be registered under this act, any:

- (1) Implement of husbandry;
- (2) all-terrain vehicle;

- (3) micro utility truck;
 - (4) golf cart;
 - (5) work-site utility vehicle;
 - (6) road roller or road machinery temporarily operated or moved upon the highways;
 - (7) municipally owned fire truck;
 - (8) privately owned fire truck subject to a mutual aid agreement with a municipality;
 - (9) school bus owned and operated by a school district or a non-public school which has the name of the municipality, school district or nonpublic school plainly painted thereon;
 - (10) farm trailer used in carrying not more than 6,000 pounds owned by a person engaged in farming, which trailer is used exclusively by the owner to transport agricultural products produced by such owner or commodities purchased by the owner for use on the farm owned or rented by the owner of such trailer and the weight of any such farm trailer, plus the cargo weight of 6,000 pounds or less, shall not be considered in determining the gross weight for which the truck or truck tractor propelling the same shall be registered; or
 - (11) farm trailer used and designed for transporting hay or forage from a field to a storage area or from a storage area to a feedlot, which is only incidentally moved or operated upon the highways, except that this paragraph shall not apply to a farm semitrailer.
- (b) Self-propelled cranes where the crane operator on a job site operates the controls of such crane from a permanent housing or module on the crane and the crane is not used for the transportation of property, except the property that is required for the operation of the crane itself and earth moving equipment which are equipped with pneumatic tires may be moved on the highways of this state from one job location to another, or to or from places of storage, delivery or repair, without complying with the provisions of the law relating to registration and display of license plates but shall comply with all the other requirements of the law relating to motor vehicles.
- (c) Oil well servicing, oil well clean-out or oil well drilling machinery or equipment need not be registered under this act but shall comply with all the other requirements of the law relating to motor vehicles.
- (d) A truck permanently mounted with a hydraulic concrete pump and placing boom may be moved on the highways of this state from one job location to another, or to or from places of storage delivery or repair, without being registered under this act, but shall comply with all the other requirements of the law relating to motor vehicles. The provisions of this subsection shall not apply to ready-mix concrete trucks.

8-133 Display of license plate

The license plate assigned to the vehicle shall be attached to the rear thereof and shall be so displayed during the current registration year or years. A Kansas registered vehicle shall have no registration plate for any year on the front of the vehicle, except that: (a) The license plate issued for a truck tractor shall be attached to the front of the truck tractor; (b) a model year license plate may be attached to the front of an antique vehicle, in accordance with K.S.A. 8-172, and amendments thereto; or (c) a personalized license plate as authorized under subsection (c) of K.S.A. 8-132, and amendments thereto, may be attached to the front of a passenger vehicle or truck. Every license plate shall at all times be securely fastened to the vehicle to which it is assigned so as to prevent the plate from swinging, and at a height not less than 12 inches from the ground, measuring from the bottom of such plate, in a place and position to be clearly visible, and shall be maintained free from foreign materials and in a condition to be clearly legible. During any period in which the construction of license plates has been suspended pursuant to the provisions of K.S.A. 8-132, and amendments thereto, the plate, tag, token, marker or sign assigned to such vehicle shall be attached to and displayed on such vehicle in such place, position, manner and condition as shall be prescribed by the director of vehicles.

8-142 Registration & title offenses **(STO §198)**

It shall be unlawful for any person to commit any of the following acts and except as otherwise provided, violation is subject to penalties provided in K.S.A. 8-149, and amendments thereto:

First: To operate, or for the owner thereof knowingly to permit the operation, upon a highway of any vehicle, as defined in K.S.A. 8-126, and amendments thereto, which is not registered, or for which a certificate of

title has not been issued or which does not have attached thereto and displayed thereon the license plate or plates assigned thereto by the division for the current registration year, including any registration decal required to be affixed to any such license plate pursuant to K.S.A. 8-134, and amendments thereto, subject to the exemptions allowed in K.S.A. 8-135, 8-198 and 8-1751a, and amendments thereto. A violation of this [part] First by a person unlawfully claiming that a motor vehicle is exempt from registration as a self-propelled crane under subsection (b) of K.S.A. 8-128, and amendments thereto, shall constitute an unclassified misdemeanor punishable by a fine of not less than \$500.

Second: To display or cause or permit to be displayed, or to have in possession, any registration receipt, certificate of title, registration license plate, registration decal, accessible parking placard or accessible parking identification card knowing the same to be fictitious or to have been canceled, revoked, suspended or altered. A violation of this part Second shall constitute an unclassified misdemeanor punishable by a fine of not less than \$100 and forfeiture of the item. A mandatory court appearance shall be required of any person violating this part Second. This part Second shall not apply to the possession of: (a) Model year license plates displayed on antique vehicles as allowed under K.S.A. 8-172, and amendments thereto; or (b) distinctive license plates allowed under K.S.A. 8-1,147, and amendments thereto.

Third: To lend to or knowingly permit the use by one not entitled thereto any registration receipt, certificate of title, registration license plate or registration decal issued to the person so lending or permitting the use thereof.

Fourth: To fail or refuse to surrender to the division, upon demand, any registration receipt, certificate of title, registration license plate or registration decal which has been suspended, canceled or revoked.

Fifth: To use a false or fictitious name or address in any application for a certificate of title, the registration of any vehicle or for any renewal or duplicate thereof, or knowingly to make a false statement or knowingly to conceal a material fact or otherwise commit a fraud in any such application.

Sixth: For the owner of a motor vehicle to file application for the registration thereof, in any county other than the county in which the owner of the vehicle resides or has a bona fide place of business, which place is not an office or facility established or maintained solely for the purpose of obtaining registration.

Seventh: To operate on the highways of this state a vehicle or combination of vehicles whose weight with cargo is in excess of the gross weight for which the truck or truck tractor propelling the same is registered, except as provided by K.S.A. 8-143, and amendments thereto, and subsections (a) to (f), inclusive, of K.S.A. 8-1911, and amendments thereto. Such gross weight shall not be required to be in excess of the limitations described by K.S.A. 8-1908 and 8-1909, and amendments thereto, for such vehicle or combination of vehicles of which it is a part. Any person or owner who operates a vehicle in this state with a registration in violation of subsection (b) of K.S.A. 8-143, and amendments thereto, shall be required to pay the additional fee equal to the fee required by the applicable registration fee schedule, less the amount of the fee required for the gross weight for which the vehicle is registered to obtain the proper registration therewith. A fine of \$75 shall be assessed for all such gross weight registration violations.

Eighth: To operate a local truck or truck tractor which is registered for a gross weight of more than 12,000 pounds as a common carrier outside a radius of three miles beyond the corporate limits of the city in which such vehicle was based when registered and licensed or to operate any other local truck or truck tractor licensed for a gross weight of more than 12,000 pounds outside a radius of 25 miles beyond the corporate limits of the city in which such vehicle was based when registered and licensed, except as provided in subsection (b) of K.S.A. 8-143 or 8-143i, and amendments thereto.

Ninth: To operate on the highways of this state a farm truck or farm trailer other than to transport: (a) Agricultural products produced by such owner; (b) commodities purchased by the owner for use on the farm owned or rented by the owner of such vehicles; (c) commodities for religious or educational institutions being transported by the owner of such vehicles for charity and without compensation of any kind, except as provided in subsection (c) of K.S.A. 66-1,109, and amendments thereto; or (d) sand, gravel, slag stone, limestone, crushed stone, cinders, black top, dirt or fill material to a township road maintenance or construction site of the township in which the owner of such truck resides.

Tenth: To operate a farm truck or truck tractor used in combination with a trailer or semitrailer for a gross weight which does not include the empty weight of the truck or truck tractor or of the combination of any truck or truck tractor and any type of trailer or semitrailer, plus the maximum weight of cargo which will be transported on or with the same; and such farm truck or farm truck tractor used to transport a gross weight of more than 54,000 pounds shall have durably lettered on the side of the motor vehicle the words "farm vehicle--not for hire."

Eleventh: To operate on the highways of this state any truck or truck tractor without the current quarter of license fees being paid thereon.

Twelfth: To operate on the highways of this state a truck or truck tractor without carrying in the cab a copy of the registration receipt for such vehicle or without having painted or otherwise durably marked on said vehicle on both sides thereof, the gross weight for which said vehicle is licensed and the name and address of the owner thereof, except as provided in K.S.A. 8-143e, and amendments thereto.

Thirteenth: To operate on the highways of this state a farm trailer carrying more than 6,000 pounds without being registered and the registration fees paid thereon.

Fourteenth: To operate more than 6,000 miles in any calendar year any truck or truck tractor which has been registered and licensed to operate not more than 6,000 miles in such calendar year, as provided in subsection (b) of K.S.A. 8-143, and amendments thereto, unless the additional fee required by such subsection (b) has been paid.

Fifteenth: For any owner who has registered a truck or truck tractor on the basis of operating not more than 6,000 miles to fail to keep the records required by the director of vehicles, or to fail to comply with rules and regulations of the secretary of revenue relating to such registration.

Sixteenth: To operate a vehicle or combination of vehicles on the national system of interstate and defense highways with a gross weight greater than permitted by the laws of the United States Congress.

8-149 Penalties—Registration & title offenses

It shall be unlawful and constitute a misdemeanor, punishable by a fine not exceeding \$2,500, or by imprisonment in the county jail for not less than 30 days nor more than six months, or both such fine and imprisonment, for any person to violate any of the provisions of K.S.A. 8-126 et seq. and amendments thereto, unless a different penalty is by this act otherwise prescribed.

8-1,126 Parking privileges for persons with disability (STO §87)

When a motor vehicle which bears a special license plate or placard issued pursuant to K.S.A. 8-1,125, and amendments thereto, is being operated by or used for the transportation of a person with a disability, such motor vehicle:

- (a) May be parked in any parking space, whether on public or private property, which is clearly marked as being reserved for the use of persons with a disability or persons responsible for the transportation of a person with a disability, except a parking space on private property which is clearly marked as being reserved for the use of a specified person with a disability;
- (b) may be parked for a period of time not to exceed 24 hours in any parking zone which is restricted as to the length of parking time permitted, except where stopping, standing or parking is prohibited to all vehicles, where parking is reserved for special types of vehicles or where parking would clearly present a traffic hazard; and
- (c) shall be exempt from any parking meter fees of the state or any city, county or other political subdivision.

8-1,129 Unlawful parking in accessible parking; blocking access ramp or aisle (STO §87)

(a) At no time, except when necessary to avoid conflict with other traffic, or in compliance with the law or the directions of a law enforcement officer or official traffic-control device, shall a person:

- (1) Stop, stand or park a vehicle, as defined in K.S.A. 8-126 and amendments thereto, in any parking space designated as accessible parking without displaying a special license plate, permanent placard or disabled veteran license plate and an individual identification card, or a valid temporary placard. Placards shall be displayed in accordance with subsection (a) of K.S.A. 8-1,125, and amendments thereto;

- (2) stop, stand or park a vehicle so that it blocks an access entrance;
 - (3) stop, stand or park a vehicle so that it blocks a disabled parking stall;
 - (4) stop, stand or park a vehicle so that it blocks an access aisle; or
 - (5) stop, stand or park a vehicle in an access aisle between or beside a designated accessible parking space.
- (b) Each violation of subsection (a) is an unclassified misdemeanor punishable by a fine of not less than \$50 nor more than \$100.
- (c) The provisions of subsection (a) shall be enforced by law enforcement officers on public and private property.

8-1,130 Falsely obtaining accessible parking ID
(STO §87)

- (a) Any person who willfully and falsely represents that such person has the qualifications to obtain a special license plate, a permanent placard and an individual identification card or temporary placard pursuant to this act shall be guilty of a class C misdemeanor.
- (b) Any person authorized to certify a person with a disability under subsection (a) of K.S.A. 8-1,125, and amendments thereto, who willfully and falsely certifies that a person has the qualifications to obtain a special license plate, a permanent placard and an individual identification card or temporary placard pursuant to this act shall be guilty of a class C misdemeanor.

8-1,130a Unlawful use—Accessible parking identification
(STO §87.1)

- (a) Any person who has in such person's possession any accessible parking identification device which has expired or has been revoked or suspended by the secretary of revenue pursuant to subsection (c) of K.S.A. 8-1,125, and amendments thereto, or K.S.A. 8-1,130b, and amendments thereto, shall be guilty of an unclassified misdemeanor punishable by a fine of not less than \$100 nor more than \$300.
- (b) Any person who utilizes any accessible parking identification device issued to another person, an agency or a business, to park in any parking space specified in K.S.A. 8-1,126, and amendments thereto, which could be utilized by a person with a disability, except when transporting or arriving to transport a person with a disability to whom or for whom the identification device was issued shall be guilty of an unclassified misdemeanor punishable by a fine of not less than \$100 nor more than \$300.

8-235 Licenses required; motorized bicycle driver's license
(STO §192)

Amended 2011

- (a) No person, except those expressly exempted, shall drive any motor vehicle upon a highway in this state unless such person has a valid driver's license. No person shall receive a driver's license unless and until such person surrenders or with the approval of the division, lists to the division all valid licenses in such person's possession issued to such person by any other jurisdiction. All surrendered licenses or the information listed on foreign licenses shall be returned by the division to the issuing department, together with information that the licensee is now licensed in a new jurisdiction. No person shall be permitted to have more than one valid license at any time.
- (b) Any person licensed under the motor vehicle drivers' license act may exercise the privilege granted upon all streets and highways in this state and shall not be required to obtain any other license to exercise such privilege by any local authority. Nothing herein shall prevent cities from requiring licenses of persons who drive taxicabs or municipally franchised transit systems for hire upon city streets, to protect the public from drivers whose character or habits make them unfit to transport the public. If a license is denied, the applicant may appeal such decision to the district court of the county in which such city is located by filing within 14 days after such denial, a notice of appeal with the clerk of the district court and by filing a copy of such notice with the city clerk of the involved city. The city clerk shall certify a copy of such decision of the city governing body to the clerk of the district court and the matter shall be docketed as any other cause and the applicant shall be granted a trial of such person's character and habits. The matter shall be heard by the court de novo in accordance with the code of civil procedure. The cost of such appeal shall be assessed in such manner as the court may direct.

(c) Any person operating in this state a motor vehicle, except a motorcycle, which is registered in this state other than under a temporary thirty-day permit shall be the holder of a driver's license which is classified for the operation of such motor vehicle, and any person operating in this state a motorcycle which is registered in this state shall be the holder of a class M driver's license, except that any person operating in this state a motorcycle which is registered under a temporary thirty-day permit shall be the holder of a driver's license for any class of motor vehicles.

(d) No person shall drive any motorized bicycle upon a highway of this state unless: (1) Such person has a valid driver's license which entitles the licensee to drive a motor vehicle in any class or classes; (2) such person is at least 15 years of age and has passed the written and visual examinations required for obtaining a class C driver's license, in which case the division shall issue to such person a class C license which clearly indicates such license is valid only for the operation of motorized bicycles; or (3) such person has had their driving privileges suspended, for a violation other than a violation of *K.S.A. 8-2,144*, 8-1567 or 8-1567a, and amendments thereto, and has made application to the division for the issuance of a class C license for the operation of motorized bicycles, in accordance with paragraph (2), in which case the division shall issue to such person a class C license which clearly indicates such license is valid only for the operation of motorized bicycles.

(e) Violation of this section shall constitute a class B misdemeanor.

8-236 Persons exempt from license

(a) The following persons are exempt from the license requirements of the motor vehicle drivers' license act:

(1) A nonresident who is at least 16 years of age and who has in such person's immediate possession a valid license issued to such nonresident in such person's home state or country may operate in this state any motor vehicle in class C or M, as designated in *K.S.A. 8-234b*, and amendments thereto;

(2) a nonresident who is at least 18 years of age and who has in such person's immediate possession a valid license issued to such nonresident in such person's home state or country which authorizes such person to operate any motor vehicle in class A or class B, as designated in *K.S.A. 8-234b*, and amendments thereto, may operate any such motor vehicle in this state, subject to the age limits applicable in this state to the operation of any type or class of vehicle operated by such person;

(3) any nonresident who is at least 18 years of age, whose home state or country does not require the licensing of drivers, may operate any motor vehicle in class C or class M, as designated in *K.S.A. 8-234b*, and amendments thereto, for a period of not more than 90 days in any calendar year, if the motor vehicle so operated is duly registered in the home state or country of such nonresident;

(4) any person while driving or operating during the hours between sunrise and sunset any farm tractor or implement of husbandry, from the farm residence to a field farmed in connection with such farm residence, or from one farm field to another.

(b) No exemption granted by this section shall apply to any person while such person's license to operate a motor vehicle is under suspension or revocation.

8-244 License to be carried and exhibited upon demand

(*STO §193*)

Every licensee shall have his or her driver's license in his or her immediate possession at all times when operating a motor vehicle, and shall display the same, upon demand of any officer of a court of competent jurisdiction or any peace officer, examiner or officer of the division of vehicles. However, no person charged with violating this section shall be convicted if such person produces in court or the office of the arresting officer a driver's license theretofore issued to such person and valid at the time of arrest.

8-245 Restrictions on licensees

(a) The division, upon issuing a driver's license shall have authority, whenever good cause appears, to impose reasonable restrictions suitable to the licensee's driving ability with respect to the type of, or special mechanical control devices required on, a motor vehicle which the licensee may operate, or such other restrictions applicable to the licensee as the division may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(b) The division shall set forth such restrictions upon the usual license form.

(c) Upon receiving satisfactory evidence of any violation of the restrictions of such license, the division may suspend or revoke the same, but the licensee shall be entitled to a hearing as provided in K.S.A. 8-255, and amendments thereto.

(d) It is a misdemeanor for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted driver's license issued to such person.

8-248 Notice of change of address or name

Whenever any person, after applying for or receiving a driver's license shall move from the mailing address or residence address named in such application or in the license issued to such person, or when the name of the licensee is changed by marriage or otherwise, such person, within 10 days thereafter, shall notify the division in writing of such person's old and new mailing and residence addresses or of such former and new names and of the number of any driver's license then held by such person.

The division shall mail all notices to the person's last known mailing address furnished to the division by the person if such address is different from the person's residence address.

8-257 Surrender of license

(a) The division, upon suspending or revoking a license, shall require that such license shall be surrendered to the division.

(b) Upon the receipt of any Kansas driver's license or permit that has been surrendered under any provision of law, and notwithstanding any other provision of law that requires the division to retain the license or permit, the division may destroy such license or permit.

(c) For purposes of this section, the term "surrendered" shall include, but not be limited to, Kansas drivers' licenses and permits received by the division due to the application of the following statutes: K.S.A. 8-246, 8-250, 8-253, 8-255, 8-260, 8-292, 8-298, 8-2,142, 8-1002, 8- 1567a, 8-1599, 8-2117 and 38-2361, and amendments thereto.

8-258 No operation under foreign license during suspension or revocation in this state

Any resident or nonresident, whose license to operate a motor vehicle in this state has been suspended or revoked as provided in this act or whose privilege to obtain a driver's license has been suspended or revoked pursuant to K.S.A. 8-252a, and amendments thereto, shall not operate a motor vehicle in this state under a license, permit or registration certificate issued by any other jurisdiction or otherwise during such suspension or after such revocation until a new license is obtained when and as permitted under this act.

8-260 Unlawful use of driver's license or nondriver's identification card

(STO §199)

(a) It shall be unlawful for any person, for any purpose, to:

(1) Display or cause or permit to be displayed or have in possession any fictitious or fraudulently altered driver's license.

(2) Lend any driver's license to any other person or knowingly permit the use thereof by another.

(3) Display or represent as the person's own, any driver's license not issued to the person.

(4) Fail or refuse to surrender to the division upon its lawful demand any driver's license which has been suspended, revoked, or canceled.

(5) Use a false or fictitious name in any application for a driver's license, or any renewal or replacement thereof, or knowingly conceal a material fact, or otherwise commit a fraud in any such application.

(6) Permit any unlawful use of a driver's license issued to the person.

(7) Photograph, photostat, duplicate or in any way reproduce any driver's license or facsimile thereof in such a manner that it could be mistaken for a valid driver's license or display or have in possession any such photograph, photostat, duplicate, reproduction or facsimile unless authorized by law.

(8) Display or possess any photograph, photostat, duplicate or facsimile of a driver's license unless authorized by law.

(9) Display or cause or permit to be displayed any canceled, revoked or suspended driver's license.

- (b) Violation of paragraphs (1) or (9) of subsection (a) is a class B nonperson misdemeanor. Violation of paragraphs (2), (3), (4), (6), (7) or (8) of subsection (a) is a class A nonperson misdemeanor. Violation of paragraph (5) of subsection (a) is a severity level 9, nonperson felony.
- (c) It shall be unlawful for any person to:
- (1) Lend any driver's license to or knowingly permit the use of any driver's license by any person under 21 years of age for use in the purchase of any alcoholic liquor.
 - (2) Lend any driver's license to or knowingly permit the use of any driver's license by a person under the legal age for consumption of cereal malt beverage for use in the purchase of any cereal malt beverage.
 - (3) Lend any driver's license, nondriver's identification card or other form of identification to aid another person in wrongfully obtaining a driver's license or replacement driver's license.
 - (4) Display or cause to be displayed or have in possession any fictitious or fraudulently altered driver's license by any person under 21 years of age for use in the purchase of any alcoholic liquor or cereal malt beverage.
- (d)(1) Upon a first conviction of a violation of any provision of subsection (c) a person shall be guilty of a class B nonperson misdemeanor and shall be sentenced to not less than 100 hours of public service and fined not less than \$200 nor more than \$500.
- (2) On a second or subsequent conviction of a violation of any provision of subsection (c), a person shall be guilty of a class A nonperson misdemeanor.
- (e) The provisions of this section shall apply to any driver's license, nondriver's identification card or other form of identification whether issued under the laws of this state or issued under the laws of another state or jurisdiction.

8-261a Making false affidavit is perjury

Any person who shall willfully and corruptly swear or affirm falsely to any material matter or thing required by the terms of this act to be sworn to or affirmed, is guilty of perjury and upon conviction shall be punishable by fine or imprisonment as other persons committing perjury are punishable.

8-262 Driving while license canceled, suspended or revoked **(STO §194)**

Amended 2011

- (a)(1) Any person who drives a motor vehicle on any highway of this state at a time when such person's privilege so to do is canceled, suspended or revoked or while such person's privilege to obtain a driver's license is suspended or revoked pursuant to K.S.A. 8-252a, and amendments thereto, shall be guilty of a class B nonperson misdemeanor on the first conviction and a class A nonperson misdemeanor on the second or subsequent conviction.
- (2) No person shall be convicted under this section if such person was entitled at the time of arrest under K.S.A. 8-257, and amendments thereto, to the return of such person's driver's license.
- (3) Except as otherwise provided by subsection (a)(4) or (c), every person convicted under this section shall be sentenced to at least five days' imprisonment and fined at least \$100 and upon a second conviction shall not be eligible for parole until completion of five days' imprisonment.
- (4) Except as otherwise provided by subsection (c), if a person: (A) Is convicted of a violation of this section, committed while the person's privilege to drive or privilege to obtain a driver's license was suspended or revoked for a violation of ***K.S.A. 8-2,144 or 8-1567***, and amendments thereto, or any ordinance of any city or resolution of any county or a law of another state, which ordinance ***or resolution*** or law prohibits the acts prohibited by ***those statutes***; and (B) is or has been also convicted of a violation of ***K.S.A. 8-2,144 or 8-1567***, and amendments thereto, or ***any ordinance of any city or resolution of any county*** or law of another state, which ordinance ***or resolution*** or law prohibits the acts prohibited by ***those statutes***, committed while the person's privilege to drive or privilege to obtain a driver's license was so suspended or revoked, the person shall not be eligible for suspension of sentence, probation or parole until the person has served at least 90 days' imprisonment, and any fine imposed on such person shall be in addition to such a term of imprisonment.

- (b) The division, upon receiving a record of the conviction of any person under this section, or any ordinance of any city or resolution of any county or a law of another state which is in substantial conformity with this section, upon a charge of driving a vehicle while the license of such person is revoked or suspended, shall extend the period of such suspension or revocation for an additional period of 90 days.
- (c)(1) The person found guilty of a class A nonperson misdemeanor on a third or subsequent conviction of this section shall be sentenced to not less than 90 days imprisonment and fined not less than \$1,500 if such person's privilege to drive a motor vehicle is canceled, suspended or revoked because such person:
- (A) Refused to submit and complete any test of blood, breath or urine requested by law enforcement excluding the preliminary screening test as set forth in K.S.A. 8-1012, and amendments thereto;
 - (B) was convicted of violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage;
 - (C) was convicted of vehicular homicide, K.S.A. 21-3405, *prior to its repeal, or K.S.A. 21-5406*, and amendments thereto, involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, *prior to its repeal, or involuntary manslaughter as defined in subsection (a)(3) of 21-5405*, and amendments thereto, or any other murder or manslaughter crime resulting from the operation of a motor vehicle; or
 - (D) was convicted of being a habitual violator, K.S.A. 8-287, and amendments thereto.
- (2) The person convicted 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 mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The court may place the person convicted under a house arrest program pursuant to *21-6609*, and amendments thereto, or any municipal ordinance to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment.
- (d) For the purposes of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section, "conviction" includes a conviction of a violation of any ordinance of any city or resolution of any county or a law of another state which is in substantial conformity with this section.

8-263 Permitting unauthorized minor to drive

(STO §197)

No person shall cause or knowingly permit his or her child or ward under the age of eighteen years to drive a motor vehicle upon any highway when such minor is not authorized under the provisions of this act or in violation of any of said provisions.

8-264 Permitting unauthorized person to drive

(STO §196)

No person shall authorize or knowingly permit a motor vehicle owned by him or her under such person's control to be driven upon any highway by any person who is not licensed under the provisions of this act.

8-265 Employing persons to operate vehicle; proper class of license required

No person shall employ any person to operate a motor vehicle, if the person so employed is not then licensed to operate the appropriate class of motor vehicles as provided in this act.

8-268 Penalties for violations

Any person who shall violate any provision of this act, unless otherwise specifically provided, shall be guilty of a misdemeanor, and on conviction, unless otherwise specifically provided, shall be fined not more than five hundred dollars (\$500) or be sentenced to the county jail for a period of not more than ninety (90) days or both such fine and imprisonment.

8-285 Habitual violator—Defined

Amended 2011

Except as otherwise provided in this section, as used in this act, the words and phrases defined in K.S.A. 8-234a, and amendments thereto, shall have the meanings ascribed to them therein. The term "habitual viola-

tor” means any resident or nonresident person who, within the immediately preceding five years, has been convicted in this or any other state:

(a) Three or more times of:

- (1) Vehicular homicide, as defined by K.S.A. 21-3405, *prior to its repeal, or in K.S.A. 21-5406*, and amendments thereto, or as prohibited by any ordinance of any city in this state, *any resolution of any county in this state* or any law of another state which is in substantial conformity with that statute;
- (2) violating K.S.A. 8-1567, and amendments thereto, or violating an ordinance of any city in this state, *any resolution of any county* in this state or any law of another state, which ordinance, *resolution* or law declares to be unlawful the acts prohibited by that statute;
- (3) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262, and amendments thereto, or while such person’s privilege to obtain a driver’s license is suspended or revoked pursuant to K.S.A. 8-252a, and amendments thereto, or, as prohibited by any ordinance of any city in this state, *any resolution of any county in this state* or any law of another state which is in substantial conformity with those statutes;
- (4) perjury resulting from a violation of K.S.A. 8-261a, and amendments thereto, or resulting from the violation of a law of another state which is in substantial conformity with that statute;
- (5) violating the provisions of the fifth clause of K.S.A. 8-142, and amendments thereto, relating to fraudulent applications, or violating the provisions of a law of another state which is in substantial conformity with that statute;
- (6) any crime punishable as a felony, if a motor vehicle was used in the perpetration of the crime;
- (7) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602 through 8-1604, and amendments thereto, or required by any ordinance of any city in this state, *any resolution of any county in this state* or a law of another state which is in substantial conformity with those statutes; or
- (8) violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage, or an ordinance of any city in this state *or a resolution of any county in this state* which is in substantial conformity with such statute.

(b) Three or more times, either singly or in combination, of any of the offenses enumerated in subsection (a). For the purpose of subsection (a)(2), in addition to the definition of “conviction” otherwise provided by law, conviction includes, but is not limited to, a diversion agreement entered into in lieu of further criminal proceedings, or a plea of nolo contendere, on a complaint, indictment, information, citation or notice to appear alleging a violation of K.S.A. 8-1567, and amendments thereto, or an ordinance of a city in this state, *a resolution of a county in this state* or law of another state, which ordinance or law prohibits the acts prohibited by that statute.

8-287 Habitual violator

(STO §195.1)

Amended 2011

Operation of a motor vehicle in this state while one’s driving privileges are revoked pursuant to K.S.A. 8-286, and amendments thereto, is a class A nonperson misdemeanor. The person found guilty of a third or subsequent conviction of this section shall be sentenced to not less than 90 days imprisonment and fined not less than \$1,500. The person convicted 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 mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours’ imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The court may place the person convicted under a house arrest program pursuant to *K.S.A. 21-6609*, and amendments thereto, or any municipal ordinance to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours’ imprisonment.

8-291 Violation of restrictions on driver's license or permit**(STO §195)**

- (a) It is a misdemeanor for any person to operate a motor vehicle in violation of the restrictions on any driver's license or permit imposed pursuant to any statute.
- (b) Except as provided in subsection (c):
- (1) Any person guilty of violating this section, upon the first conviction, shall be fined not to exceed \$250, and the court shall suspend such person's privilege to operate a motor vehicle for not less than 30 days and not more than two years.
 - (2) Any person guilty of violating this section, upon a second or subsequent conviction, shall be fined not to exceed \$500, and the court shall suspend such person's privilege to operate a motor vehicle for not less than 90 days and not more than two years.
- (c) Any person guilty of violating this section, for violating restrictions on a driver's license or permit imposed pursuant to K.S.A. 8-237, 8-296, 8-2,100 or 8-2,101, and amendments thereto:
- (1) Upon first conviction, the court shall suspend such person's privilege to operate a motor vehicle for 30 days;
 - (2) upon a second conviction, the court shall suspend such person's privilege to operate a motor vehicle for 90 days; and
 - (3) upon a third or subsequent conviction, the court shall suspend such person's privilege to operate a motor vehicle for one year.
- (d) Nothing in this section shall limit a court in imposing penalties, conditions or restrictions authorized by any other statute arising from the same occurrence in addition to penalties and suspensions imposed under this section.

8-2,100 Instruction permits

- (a) Any person who is at least 14 years of age, but less than 17 years of age may apply to the division for an instruction permit. The division may issue an instruction permit under this section to any person who is at least 14 years of age, but less than 16 years of age only upon written application of a parent or guardian of the minor. The division may in its discretion, after the applicant has successfully passed all parts of the examination other than the driving test, issue to the applicant an instruction permit for a period of one year.
- (b) An instruction permit issued under this subsection shall authorize the permit holder to drive a passenger car under the following conditions:
- (1) The permit holder shall be in immediate possession of the instruction permit;
 - (2) a supervising driver shall be seated beside the permit holder in the front seat of the passenger car when such car is in motion. The supervising driver shall be an adult who is at least 21 years of age who is the holder of a valid commercial driver's license, class A, B or C driver's license and who has at least one year of driving experience. No person other than the supervising driver can be in the front seat;
 - (3) the permit holder may drive at any time in accordance with the provisions of this section;
 - (4) the permit holder shall not operate a wireless communication device while driving a passenger car, except that a permit holder may operate a wireless communications device while driving a passenger car to report illegal activity or to summons medical or other emergency help.
- (c) Any person who is at least 14 years of age, but less than 17 years of age may apply for an instruction permit to operate a motorcycle either separate from or in conjunction with an instruction permit to operate a passenger car. The applicant shall successfully pass all parts of the examination other than the driving test. An instruction permit issued under this subsection shall authorize the permit holder to operate a motorcycle if such permit holder is accompanied by an adult who is at least 21 years of age, who is the holder of a valid class M driver's license, who has had at least one year of driving experience and who is either riding a motorcycle in the general proximity of the permit holder or is riding as a passenger on the motorcycle being operated by the permit holder.
- (d) An instruction permit issued under this section is subject to suspension or revocation in the same manner as any other driver's license. An instruction permit shall be suspended in accordance with K.S.A. 8-291, and amendments thereto, for any violation of restrictions under this section.

(e) This section shall be a part of and supplemental to the motor vehicle driver's license act.

8-2,127 Exemptions—Commercial vehicles

Vehicles that are exempt from this act include:

(a) Farm vehicles, defined as follows:

- (1) Registered as a farm truck or truck tractor under K.S.A. 8-143, and amendments thereto;
- (2) used to transport either agricultural products, farm machinery, farm supplies, or both, to or from a farm;
- (3) not used in the operations of a common motor carrier; and
- (4) used within 150 air miles of any farm or farms owned or leased by the registered owner of such farm vehicle;

(b) vehicles operated by firefighters and other persons which are necessary to the preservation of life or property or the execution of emergency governmental functions, are equipped with audible and visual signals and are not subject to normal traffic regulation. These vehicles include fire trucks, hook and ladder trucks, foam or water transport trucks, police SWAT team vehicles, ambulances or other vehicles that are used in response to emergencies;

(c) military vehicles which are operated by military personnel in pursuit of military purposes and all noncivilian operators of equipment owned or operated by the United States department of defense. This applies to any active duty military personnel and members of the reserves and national guard on active duty, including personnel on full-time national guard duty, personnel on part-time training and national guard military technicians, civilians who are required to wear military uniforms and are subject to the code of military justice; and

(d) motor vehicles, which would otherwise be considered commercial motor vehicles, if such vehicles are used solely and exclusively for private noncommercial use and any operator of such vehicles.

8-2,128 CDL—Definitions

As used in this act:

(a) "Alcohol" means any substance containing any form of alcohol including, but not limited to, ethanol, methanol, propanol and isopropanol;

(b) "alcohol concentration" means:

- (1) The number of grams of alcohol per 100 milliliters of blood; or
- (2) the number of grams of alcohol per 210 liters of breath;

(c) "commercial driver's license" means a commercial license issued pursuant to K.S.A. 8-234b, and amendments thereto;

(d) "commercial driver license system" means the information system established pursuant to the commercial motor vehicle safety act of 1986 to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers;

(e) "instruction permit" means a permit issued pursuant to K.S.A. 8-294, and amendments thereto;

(f) "commercial motor vehicle" means a motor vehicle designed or used to transport passengers or property, if:

- (1) The vehicle has a gross vehicle weight rating of 26,001 or more pounds or such lesser rating, as determined by rules and regulations adopted by the secretary, but shall not be more restrictive than the federal regulation;
- (2) the vehicle is designed to transport 16 or more passengers, including the driver; or
- (3) the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. 172, subpart F;

(g) "controlled substance" means any substance so classified under K.S.A. 21-5701, and amendments thereto;

(h) "conviction" means an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law and in a court of original jurisdiction or an administrative proceeding, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended or probated;

(i) "disqualification" means any of the following:

- (1) The suspension, revocation, or cancellation of a commercial driver's license by the state or jurisdiction of issuance;
 - (2) any withdrawal of a person's privileges to drive a commercial motor vehicle by a state or other jurisdiction as the result of a violation of state or local law relating to motor vehicle traffic control, other than parking, vehicle weight or vehicle defect violations;
 - (3) a determination by the federal motor carrier safety administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. 391;
- (j) "drive" means to drive, operate or be in physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For purposes of K.S.A. 8-2,137, 8-2,138, 8-2,142, 8-2,144 and 8-2,145, and amendments thereto, "drive" includes operation or physical control of a motor vehicle anywhere in the state;
- (k) "driver" means any person who drives, operates or is in physical control of a commercial motor vehicle, in any place open to the general public for purposes of vehicular traffic, or who is required to hold a commercial driver's license;
- (l) "driver's license" means any driver's license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state, including:
- (1) Any temporary license or instruction;
 - (2) the privilege of any person to drive a motor vehicle whether or not such person holds a valid license; or
 - (3) any nonresident's operating privilege;
- (m) "employer" means any person, including the United States, a state or a political subdivision of a state, who owns or leases a commercial motor vehicle or assigns a person to drive a commercial motor vehicle;
- (n) "endorsement" means an authorization to an individual's commercial driver's license required to permit the individual to operate certain types of commercial motor vehicles;
- (o) "felony" means any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one year;
- (p) "gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination (articulated) vehicle. The gross vehicle weight rating of a combination (articulated) vehicle (commonly referred to as the "gross combination weight rating") is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of the towed unit or units;
- (q) "hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 C.F.R. part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. part 73;
- (r) "motor vehicle" means every vehicle which is self-propelled, and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power and motorized wheel chairs;
- (s) "out-of-service order" means a temporary prohibition against driving a commercial motor vehicle, which is imposed when a driver has any measured or detected alcohol concentration while on duty, or operating, or in physical control of a commercial motor vehicle or a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican or local jurisdiction that a driver, a commercial motor vehicle or a motor carrier operation, is out-of-service pursuant to 49 C.F.R. Part 386.72, 392.5, 395.13, 396.9 or such compatible laws, or the North American out-of-service criteria;
- (t) "residence" means the place which is adopted by a person as the person's place of habitation and to which, whenever the person is absent, the person has the intention of returning. When a person eats at one place and sleeps at another, the place where the person sleeps shall be considered the person's residence;
- (u) "secretary" means the secretary of the Kansas department of revenue;
- (v) "serious traffic violation" means:
- (1) Excessive speeding, is defined as 15 miles per hour or more over the posted speed limit;
 - (2) reckless driving, as defined under K.S.A. 8-1566, and amendments thereto;
 - (3) a violation of any state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death to any person;

- (4) changing lanes of traffic illegally or erratically, as defined under K.S.A. 8-1548, and amendments thereto;
- (5) following another vehicle too closely, as defined under K.S.A. 8-1523, and amendments thereto;
- (6) a violation of subsection (a) of K.S.A. 8-2,132, and amendments thereto; or
- (7) any other violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, which the secretary determines by rule and regulation to be serious;
- (w) “state” means a state of the United States and the District of Columbia;
- (x) “state of domicile” means that state where a person has such person’s true, fixed and permanent home and principal residence and to which such person has the intention of returning whenever such person is absent;
- (y) “tank vehicle” means any commercial motor vehicle that is designed to transport any liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks, as defined in 49 C.F.R. 171. However, this definition does not include portable tanks having a rated capacity under 1,000 gallons;
- (z) “United States” means the 50 states and the District of Columbia;
- (aa) “division” means the division of vehicles of the Kansas department of revenue;
- (bb) “director” means the director of the division of vehicles of the Kansas department of revenue;
- (cc) “foreign country” means any jurisdiction other than the United States;
- (dd) “nonresident commercial driver’s license” means a license issued pursuant to K.S.A. 8-2,148, and amendments thereto;
- (ee) “fatality” means the death of a person as a result of a motor vehicle accident;
- (ff) “noncommercial motor vehicle” means a motor vehicle or combination of motor vehicles not defined by the term commercial motor vehicle in subsection (f);
- (gg) “school bus” means a commercial motor vehicle used to transport preprimary, primary or secondary school students from home to school, from school to home or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

8-2,129 CDL—One driver’s license restriction

No person who drives a commercial motor vehicle may have more than one driver’s license, except during the ten-day period beginning on the date the person is issued a driver’s license.

8-2,130 CDL—Driver must notify division and employer of traffic violations or suspensions, revocations or cancellations of driver’s license; information required to be provided by driver to employer

- (a)(1) Any driver of a commercial motor vehicle holding a driver’s license issued by this state, who is convicted of violating any state law or local ordinance relating to motor vehicle traffic control, in any other state, or federal, provincial, territorial or municipal laws of Canada, other than parking violations, shall notify the division in the manner specified by the division within 30 days of the date of conviction.
- (2) Any driver of a commercial motor vehicle holding a driver’s license issued by this state who is convicted of violating any state law or local ordinance relating to motor vehicle traffic control in this or any other state or federal, provincial, territorial or municipal laws of Canada, other than parking violations, must notify such person’s employer, in writing, of the conviction within 30 days of the date of conviction.
- (b) Any driver whose driver’s license is suspended, revoked or cancelled by any state, who loses the privilege to drive a commercial motor vehicle in any state for any period, or who is disqualified from driving a commercial motor vehicle for any period, must notify such person’s employer of that fact before the end of the business day following the day the driver received notice of that fact.
- (c) Any person who applies to be a commercial motor vehicle driver must provide the employer, at the time of the application, with the following information for the 10 years preceding the date of application:
 - (1) A list of the names and addresses of the applicant’s previous employers for which the applicant was a driver of a commercial motor vehicle;
 - (2) the dates between which the applicant drove for each employer; and
 - (3) the reason for leaving that employer.

The applicant shall certify that all information furnished is true and complete. An employer may require an applicant to provide additional information.

8-2,131 CDL—Requirements which must be complied with by employer of commercial driver

- (a) An employer shall require the applicant to provide the information specified in subsection (c) of K.S.A. 8-2,130, and amendments thereto.
- (b) No employer shall knowingly allow, require, permit or authorize a driver to drive a commercial motor vehicle:
- (1) During any period in which the driver has a driver's license suspended, revoked or canceled by a state; has lost the privilege to drive a commercial motor vehicle in a state or has been disqualified from driving a commercial motor vehicle;
 - (2) during any period in which the driver has more than one driver's license, except during the ten-day period beginning on the date the employee is issued a driver's license;
 - (3) during any period in which the employee, the motor vehicle such employee is driving or the motor carrier operation is subject to an out-of-service order; or
 - (4) in violation of a federal, state or local law or regulation pertaining to railroad-highway grade crossings.

8-2,132 Driver of commercial vehicle must have a commercial class driver's license to operate vehicle

- (a) On and after April 1, 1992, except when driving under a commercial class A, B or C or class A or B instruction permit or a valid class C license and accompanied by the holder of a commercial driver's license valid for the vehicle being driven, no person may drive a commercial motor vehicle unless the person has a valid commercial driver's license and is in immediate possession thereof and applicable endorsements valid for the vehicle they are driving, except that no person charged with violating this subsection shall be convicted if such person produces in court or the office of the arresting officer a commercial driver's license issued to such person and valid at the time of the arrest.
- (b) No person shall drive a commercial motor vehicle while their driving privilege is suspended, revoked or canceled or while subject to a disqualification.
- (c) No person shall drive a commercial motor vehicle in violation of an out-of-service order.
- (d) Any commercial driver in violation of this section shall be guilty of a class B misdemeanor.

8-2,135 Commercial driver's license classes

- (a) The commercial driver's license shall be marked "commercial driver's license" or "CDL," and must be, to the maximum extent practicable, tamper proof. It shall include, but not be limited to, the following information:
- (1) The requirements set out in K.S.A. 8-243, and amendments thereto;
 - (2) a number or identifier deemed appropriate by the state licensing authority;
 - (3) the class or type of commercial motor vehicle or vehicles which the person is authorized to drive together with any endorsements or restriction;
 - (4) the name of this state; and
 - (5) the dates between which the license is valid.
- (b) Commercial drivers' licenses issued pursuant to K.S.A. 8-234b, and amendments thereto, may be issued with the following endorsements or restrictions; and the holder of a valid commercial driver's license may drive all vehicles in the class for which that license is issued, and all lesser classes of vehicles, except motorcycles and vehicles which require an endorsement, unless the proper endorsement appears on the license;
- (1) "H"--authorizes the driver to drive a vehicle transporting hazardous materials;
 - (2) "L"--restricts the driver to vehicles not equipped with airbrakes;
 - (3) "T"--authorizes driving double and triple trailers;
 - (4) "P"--authorizes driving vehicles carrying passengers;
 - (5) "N"--authorizes driving tank vehicles;
 - (6) "X"--represents a combination of hazardous materials and tank vehicle endorsements;
 - (7) "S"--authorizes driving school buses.
- (c) Before issuing a commercial driver's license, the division must obtain driving record information through the commercial driver license information system, the national driver register and from each state in which the person has been licensed.

- (d) Within 10 days after issuing a commercial driver's license, the division shall notify the commercial driver license information system of that fact, providing all information required to ensure identification of the person.
- (e) All original licenses issued after April 1, 1992, shall expire on the fourth anniversary of the date of birth of the licensee which is nearest the date of application. All renewals thereof shall expire on every fourth anniversary of the date of birth of the licensee. No driver's license shall expire in the same calendar year in which the original license or renewal license is issued, except that if the foregoing provisions of this section shall require the issuance of a renewal license or an original license for a period of less than six calendar months, the license issued to the applicant shall expire at midnight on every fourth anniversary of the date of birth of the applicant. At least 30 days prior to the expiration of a person's license, the division shall mail a notice of expiration or renewal application to such person at the address shown on the license.
- (f) When applying for renewal of a commercial driver's license, the applicant must complete the test required in subsection (e) of K.S.A. 8-247, and amendments thereto, and the application form required by subsection (b) of K.S.A. 8-2,134, and amendments thereto, providing updated information and required certifications and if the applicant wishes to retain a hazardous materials endorsement, the applicant must take and pass the test for such endorsement.

8-2,136 CDL—Prohibiting driving with alcohol person's system

- (a) Notwithstanding any other provisions of this act, a driver shall not drive, operate or be in physical control of a commercial motor vehicle while having alcohol in such driver's system.
- (b) A driver who drives, operates or is in physical control of a commercial motor vehicle while having alcohol in such driver's system or who refuses to take a test to determine their alcohol content as provided by K.S.A. 8-2,142, and amendments thereto, shall be placed out-of-service for 24 hours.
- (c) A driver convicted of violating an out-of-service order while driving or operating a commercial motor vehicle shall be subject to the following disqualifications:
- (1) First conviction, the driver is disqualified for 90 days;
 - (2) second conviction, the driver is disqualified for one year;
 - (3) third and subsequent conviction, the driver is disqualified for three years.

8-2,141 CDL—Exemption from state license

Notwithstanding any law to the contrary, a person may drive a commercial motor vehicle if the person has a commercial driver's license issued by any state in accordance with the minimum federal standards for the issuance of commercial motor vehicle drivers' licenses or by a foreign jurisdiction which tests drivers and issues commercial drivers' licenses in accordance with or under standards similar to the minimum federal standards, as determined by the federal motor carrier safety administration, if the person is not suspended, revoked or canceled; and if the person is not disqualified from driving a commercial motor vehicle, or subject to an out-of-service order.

8-2,142 Disqualification from driving commercial vehicle

Amended 2011

- (a) A person is disqualified from driving a commercial motor vehicle for a period of not less than one year upon a first occurrence of any one of the following:
- (1) While operating a commercial motor vehicle:
 - (A) The person is convicted of violating K.S.A. 8-2,144, and amendments thereto;
 - (B) the person is convicted of violating subsection (b) of K.S.A. 8-2,132, and amendments thereto;
 - (C) the person is convicted of causing a fatality through the negligent operation of a commercial motor vehicle;
 - (D) the person's test refusal or test failure, as defined in subsection (m); *or*
 - (E) *the person is convicted of a violation identified in subsection (a)(2)(A); or*
 - (2) while operating a noncommercial motor vehicle:
 - (A) The person is convicted of a violation of K.S.A. 8-1567, and amendments thereto, or of a violation of an ordinance of any city in this state, *a resolution of any county in this state* or any law of another state, which ordinance or law declares to be unlawful the acts prohibited by that statute; or

- (B) the person's test refusal or test failure, as defined in K.S.A. 8-1013, and amendments thereto; or
- (3) while operating any motor vehicle:
- (A) The person is convicted of leaving the scene of an accident; or
- (B) the person is convicted of a felony, other than a felony described in subsection (e), while using a motor vehicle to commit such felony.
- (b) If any offenses, test refusal or test failure specified in subsection (a) occurred in a commercial motor vehicle while transporting a hazardous material required to be placarded, the person is disqualified for a period of not less than three years.
- (c) A person shall be disqualified for life upon the second or a subsequent occurrence of any offense, test refusal or test failure specified in subsection (a), or any combination thereof, arising from two or more separate incidents.
- (d) The secretary of revenue may adopt rules and regulations establishing guidelines, including conditions, under which a disqualification for life under subsection (c) may be reduced to a period of not less than 10 years.
- (e) A person is disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle or noncommercial motor vehicle in the commission of any felony involving the manufacture, distribution or dispensing of a controlled substance, or possession with intent to manufacture, distribute or dispense a controlled substance.
- (f) A person is disqualified from driving a commercial motor vehicle for a period of not less than 60 days if convicted of two serious traffic violations, or 120 days if convicted of three or more serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period. Any disqualification period under this paragraph shall be in addition to any other previous period of disqualification. The beginning date for any three-year period within a ten-year period, required by this subsection, shall be the issuance date of the citation which resulted in a conviction.
- (g) A person is disqualified from driving a commercial motor vehicle for a period of not less than 60 days if convicted of two serious traffic violations, or 120 days if convicted of three or more serious traffic violations, committed in a noncommercial motor vehicle arising from separate incidents occurring within a three-year period, if such convictions result in the revocation, cancellation or suspension of the person's driving privileges.
- (h)(1) A person who is convicted of operating a commercial motor vehicle in violation of an out-of-service order shall be disqualified from driving a commercial motor vehicle for a period of not less than:
- (A) Ninety days nor more than one year, if the driver is convicted of a first violation of an out-of-service order;
- (B) one year nor more than five years if the person has one prior conviction for violating an out-of-service order in a separate incident and such prior offense was committed within the 10 years immediately preceding the date of the present violation; or
- (C) three years nor more than five years if the person has two or more prior convictions for violating out-of-service orders in separate incidents and such prior offenses were committed within the 10 years immediately preceding the date of the present violation.
- (2) A person who is convicted of operating a commercial motor vehicle in violation of an out-of-service order while transporting a hazardous material required to be placarded under 49 U.S.C. §5101 et seq. or while operating a motor vehicle designed to transport more than 15 passengers, including the driver, shall be disqualified from driving a commercial motor vehicle for a period of not less than:
- (A) One hundred and eighty days nor more than two years if the driver is convicted of a first violation of an out-of-service order; or
- (B) three years nor more than five years if the person has a prior conviction for violating an out-of-service order in a separate incident and such prior offense was committed within the 10 years immediately preceding the date of the present violation.
- (i)(1) A person who is convicted of operating a commercial motor vehicle in violation of a federal, state or local law or regulation pertaining to one of the following six offenses at a railroad-highway grade crossing

shall be disqualified from driving a commercial motor vehicle for the period of time specified in paragraph (2):

- (A) For persons who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;
- (B) for persons who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;
- (C) for persons who are always required to stop, failing to stop before driving onto the crossing;
- (D) for all persons failing to have sufficient space to drive completely through the crossing without stopping;
- (E) for all persons failing to obey a traffic control device or the directions of an enforcement official at the crossing; or
- (F) for all persons failing to negotiate a crossing because of insufficient undercarriage clearance.

(2) A driver shall be disqualified from driving a commercial motor vehicle for not less than:

- (A) Sixty days if the driver is convicted of a first violation of a railroad-highway grade crossing violation;
- (B) one hundred and twenty days if, during any three-year period, the driver is convicted of a second railroad-highway grade crossing violation in separate incidents; or
- (C) one year if, during any three-year period, the driver is convicted of a third or subsequent railroad-highway grade crossing violation in separate incidents.

(j) After suspending, revoking or canceling a commercial driver's license, the division shall update its records to reflect that action within 10 days. After suspending, revoking or canceling a nonresident commercial driver's privileges, the division shall notify the licensing authority of the state which issued the commercial driver's license or nonresident commercial driver's license within 10 days. The notification shall include both the disqualification and the violation that resulted in the disqualification, suspension, revocation or cancellation.

(k) Upon receiving notification from the licensing authority of another state, that it has disqualified a commercial driver's license holder licensed by this state, or has suspended, revoked or canceled such commercial driver's license holder's commercial driver's license, the division shall record such notification and the information such notification provides on the driver's record.

(l) Upon suspension, revocation, cancellation or disqualification of a commercial driver's license under this act, the license shall be immediately surrendered to the division if still in the licensee's possession. If otherwise eligible, and upon payment of the required fees, the licensee may be issued a noncommercial driver's license for the period of suspension, revocation, cancellation or disqualification of the commercial driver's license under the same identifier number.

(m) As used in this section, "test refusal" means a person's refusal to submit to and complete a test requested pursuant to K.S.A. 8-2,145, and amendments thereto; "test failure" means a person's submission to and completion of a test which determines that the person's alcohol concentration is .04 or greater, pursuant to K.S.A. 8-2,145, and amendments thereto.

8-2,144 CDL—Driving under influence of alcohol or drugs

(STO §30.1)

Amended 2011

(a) ***Driving a commercial motor vehicle under the influence is operating or attempting to operate*** any commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, within this state while:

- (1) The alcohol concentration in the person's blood or breath, as shown by any competent evidence, including other competent evidence, as defined in paragraph (1) of subsection (f) of K.S.A. 8-1013, and amendments thereto, is .04 or more;
- (2) the alcohol concentration in the person's blood or breath, as measured within ***three*** hours of the time of driving a commercial motor vehicle, is .04 or more; or
- (3) committing a violation of subsection (a) of K.S.A. 8-1567, and amendments thereto, or the ordinance of a city or resolution of a county which prohibits any of the acts prohibited thereunder.

(b)(1) *Driving a commercial motor vehicle under the influence is:*

- (A) On a first conviction a class B, nonperson misdemeanor. The person convicted shall be sentenced to not less than 48 consecutive hours nor more than six months' imprisonment, or in the court's discretion, 100 hours of public service, and fined not less than \$750 nor more than \$1,000. The person convicted shall serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation, suspension or reduction of sentence or parole or other release;**
- (B) on a second conviction a class A, nonperson misdemeanor. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,250 nor more than \$1,750. The person convicted shall serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-6609, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 120 hours; and**
- (C) on a third or subsequent conviction a nonperson felony. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,750 nor more than \$2,500. The person convicted 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 mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 240 hours of confinement. Such 240 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-6609, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 240 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 240 hours.**
- (2) In addition, prior to sentencing for any conviction, the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.**
- (c) Any person convicted of a violation of this section, or a violation of a city ordinance or county resolution prohibiting the acts prohibited by this section, who had one or more children under the age of 14 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment shall be served consecutively to any other minimum mandatory penalty imposed for a violation of this section, or a violation of a city ordinance or county resolution prohibiting the acts prohibited by this section. Any enhanced penalty imposed shall not exceed the**

maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.

(d) If a person is charged with a violation of this section involving drugs, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.

(e) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.

(f) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.

(g) Prior to filing a complaint alleging a violation of this section, a prosecutor shall request and shall receive from the:

(1) Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and

(2) Kansas bureau of investigation central repository all criminal history record information concerning such person.

(h) The court shall electronically report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the:

(1) Division a record of all prior convictions obtained against such person for any violation of any of the motor vehicle laws of this state; and

(2) Kansas bureau of investigation central repository all criminal history record information concerning such person.

(i) Upon conviction of a person of a violation of this section or a violation of a city ordinance or county resolution prohibiting the acts prohibited by this section, the division, upon receiving a report of conviction, shall:

(1) Disqualify the person from driving a commercial motor vehicle under K.S.A. 8-2,142, and amendments thereto; and

(2) suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

(j)(1) Nothing contained in this section shall be construed as preventing any city from enacting ordinances, or any county from adopting resolutions, declaring acts prohibited or made unlawful by this section as unlawful or prohibited in such city or county and prescribing penalties for violation thereof.

(2) The minimum penalty prescribed by any such ordinance or resolution shall not be less than the minimum penalty prescribed by this section for the same violation, and the maximum penalty in any such ordinance or resolution shall not exceed the maximum penalty prescribed for the same violation.

(3) Any such ordinance or resolution shall authorize the court to order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.

(k)(1) Upon the filing of a complaint, citation or notice to appear alleging a person has violated a city ordinance prohibiting the acts prohibited by this section, and prior to conviction thereof, a city attorney shall request and shall receive from the:

(A) Division of vehicles a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and

- (B) Kansas bureau of investigation central repository all criminal history record information concerning such person.*
- (2) If the elements of such ordinance violation are the same as the elements of a violation of this section that would constitute, and be punished as, a felony, the city attorney shall refer the violation to the appropriate county or district attorney for prosecution. The county or district attorney shall accept such referral and pursue a disposition of such violation, and shall not refer any such violation back to the city attorney.*
- (l) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section, or a violation of any ordinance of a city or resolution of any county in this state which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this section or by the ordinance or resolution.*
- (m) The alternatives set out in subsections (a)(1), (a)(2) and (a)(3) may be pleaded in the alternative, and the state, city or county may, but shall not be required to, elect one or two of the three prior to submission of the case to the fact finder.*
- (n) For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section:*
- (1) "Conviction" includes being convicted of a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits;*
- (2) any convictions occurring during a person's lifetime shall be taken into account when determining the sentence to be imposed for a first, second, third or subsequent offender; and*
- (3) it is irrelevant whether an offense occurred before or after conviction for a previous offense.*
- (o) For the purpose of this section:*
- (1) "Alcohol concentration" means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath;*
- (2) "imprisonment" shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city; and*
- (3) "drug" includes toxic vapors as such term is defined in K.S.A. 21-5712, and amendments thereto.*
- (p) On and after July 1, 2011, the amount of \$250 from each fine imposed pursuant to this section shall be remitted by the clerk of the district court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall credit the entire amount to the community corrections supervision fund established by K.S.A. 75-52,113, and amendments thereto.*

8-2,152 Penalties—Commercial driver's licenses (Fines)

- (a) A driver who is convicted of violating an out-of-service order shall be subject to a civil penalty of not less than \$1,100 nor more than \$2,750, in addition to any disqualification under K.S.A. 8-2,142, and amendments thereto.
- (b) An employer who is convicted of violating subsection (b)(3) of K.S.A. 8-2,131, and amendments thereto, shall be subject to a civil penalty of not less than \$2,750 nor more than \$11,000.
- (c) An employer who is convicted of a violation of subsection (b)(4) of K.S.A. 8-2,131, and amendments thereto, shall be subject to a civil penalty of not less than \$2,750 nor more than \$11,000.
- (d) Civil penalties shall be enforced and collected by an attorney for the division of vehicles in the appropriate district court.
- (e) Civil penalties shall be remitted in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, to the state treasurer. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund.
- (f) The provisions of this section shall be a part of and supplemental to the Kansas uniform commercial drivers' license act.

8-2,153 Penalties—Commercial driver's licenses (Misdemeanor)

- (a) It shall be unlawful and constitute a class B misdemeanor for any person to violate any of the provisions of the Kansas uniform commercial drivers' license act, unless a different penalty is prescribed by this act.
- (b) The provisions of this section shall be a part of and supplemental to the Kansas uniform commercial drivers' license act.

Chapter 8
Articles 10 thru 14

8-1012 Refusal to take breath test
(STO §30.2)

Amended 2011

- (a) Any person who operates or attempts to operate a vehicle within this state is deemed to have given consent to submit to a preliminary screening test of the person's breath *or saliva, or both*, subject to the provisions set out in subsection (b).
- (b) A law enforcement officer may request a person who is operating or attempting to operate a vehicle within this state to submit to a preliminary screening test of the person's breath *or saliva, or both*, if the officer has reasonable suspicion to believe the person has been operating or attempting to operate a vehicle while under the influence of alcohol or drugs or both alcohol and drugs.
- (c) At the time the test is requested, the person shall be given oral notice that:
- (1) There is no right to consult with an attorney regarding whether to submit to testing;
 - (2) refusal to submit to testing is a traffic infraction; and
 - (3) further testing may be required after the preliminary screening test. Failure to provide the notice shall not be an issue or defense in any action. The law enforcement officer then shall request the person to submit to the test.
- (d) Refusal to take and complete the test as requested is a traffic infraction. If the person submits to the test, the results shall be used for the purpose of assisting law enforcement officers in determining whether an arrest should be made and whether to request the tests authorized by K.S.A. 8-1001, and amendments thereto. A law enforcement officer may arrest a person based in whole or in part upon the results of a preliminary screening test. Such results shall not be admissible in any civil or criminal action concerning the operation of or attempted operation of a vehicle except to aid the court or hearing officer in determining a challenge to the validity of the arrest or the validity of the request to submit to a test pursuant to K.S.A. 8-1001, and amendments thereto. Following the preliminary screening test, additional tests may be requested pursuant to K.S.A. 8-1001, *and amendments thereto*.
- (e) Any preliminary screening of a person's breath shall be conducted with a device approved pursuant to K.S.A. 65-1,107, and amendments thereto. Any preliminary screening of a person's saliva shall be conducted with a device approved pursuant to K.S.A. 75-712h, and amendments thereto.*

8-1013 Definitions—Driving under influence

Amended 2011

As used in K.S.A. 8-1001 through 8-1010, 8-1011, 8-1012, 8-1014, 8-1015, 8-1016, 8-1017 and 8-1018, and amendments thereto, and this section:

- (a) "Alcohol concentration" means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.
- (b)(1) "Alcohol or drug-related conviction" means any of the following:
- (A) Conviction of vehicular battery or aggravated vehicular homicide, if the crime is committed while committing a violation of K.S.A. 8-1567, and amendments thereto or the ordinance of a city or resolution of a county in this state which prohibits any acts prohibited by that statute, or conviction of a violation of *K.S.A. 8-2,144 or 8-1567*, and amendments thereto;
 - (B) conviction of a violation of a law of another state which would constitute a crime described in subsection (b)(1)(A) if committed in this state;
 - (C) conviction of a violation of an ordinance of a city in this state or a resolution of a county in this state which would constitute a crime described in subsection (b)(1)(A), whether or not such conviction is in a court of record; or
 - (D) conviction of an act which was committed on a military reservation and which would constitute a violation of *K.S.A. 8-2,144 or 8-1567*, and amendments thereto, or would constitute a crime described in subsection (b)(1)(A) if committed off a military reservation in this state.

- (2) For the purpose of determining whether an occurrence is a first, second or subsequent occurrence: (A) “Alcohol or drug-related conviction” also includes entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging commission of a crime described in subsection (b)(1), including a diversion agreement entered into prior to the effective date of this act; and (B) it is irrelevant whether an offense occurred before or after conviction or diversion for a previous offense.
- (c) “Division” means the division of vehicles of the department of revenue.
- (d) “Ignition interlock device” means a device which uses a breath analysis mechanism to prevent a person from operating a motor vehicle if such person has consumed an alcoholic beverage.
- (e) “Occurrence” means a test refusal, test failure or alcohol or drug-related conviction, or any combination thereof arising from one arrest, including an arrest which occurred prior to the effective day of this act.
- (f) “Other competent evidence” includes: (1) Alcohol concentration tests obtained from samples taken **three** hours or more after the operation or attempted operation of a vehicle; and (2) readings obtained from a partial alcohol concentration test on a breath testing machine.
- (g) “Samples” includes breath supplied directly for testing, which breath is not preserved.
- (h) “Test failure” or “fails a test” refers to a person’s having results of a test administered pursuant to this act, other than a preliminary screening test, which show an alcohol concentration of .08 or greater in the person’s blood or breath, and includes failure of any such test on a military reservation.
- (i) “Test refusal” or “refuses a test” refers to a person’s failure to submit to or complete any test **of the person’s blood, breath, urine or other bodily substance**, other than a preliminary screening test, in accordance with this act, and includes refusal of any such test on a military reservation.
- (j) “Law enforcement officer” has the meaning provided by **K.S.A. 21-5111**, and amendments thereto, and includes any person authorized by law to make an arrest on a military reservation for an act which would constitute a violation of K.S.A. 8-1567, and amendments thereto, if committed off a military reservation in this state.

8-1017 Circumvention of ignition interlock device

(STO §30.3)

Amended 2011

- (a) No person shall:
- (1) Tamper with an ignition interlock device, **circumvent it or render it** inaccurate or inoperative;
 - (2) request or solicit another to blow into an ignition interlock device, or start a motor vehicle equipped with such device, providing an operable motor vehicle to a person whose driving privileges have been restricted to driving a motor vehicle equipped with such device;
 - (3) blow into **an ignition interlock device**, or start a motor vehicle equipped with **such device**, providing an operable motor vehicle to a person whose driving privileges have been restricted to driving a motor vehicle equipped with such device; or
 - (4) operate a vehicle not equipped with an ignition interlock device **while such person’s driving privileges have been restricted to driving a motor vehicle equipped with such device**.
- (b) Violation of this section is a class A, nonperson misdemeanor.
- (c) In addition to any other penalties provided by law:
- (1)(A) On a first conviction of a violation of subsection (a)(1) or (a)(2), the division shall extend the ignition interlock restriction period on the person’s driving privileges for an additional 90 days; and (B) on a second or subsequent conviction of a violation of subsection (a)(1) or (a)(2), the division shall restart the original ignition interlock restriction period on the person’s driving privileges; and (2) on a conviction of a violation of subsection (a)(4), the division shall restart the original ignition interlock restriction period on the person’s driving privileges.**

8-1022 Permitting driving in violation of 8-1014**(STO §105)****Amended 2011**

- (a) It shall be unlawful for the owner of a motor vehicle to allow a person to drive such vehicle when such owner knows or reasonably should have known such person was driving in violation of K.S.A. 8-1014, and amendments thereto.
- (b) Violation of this section is an unclassified misdemeanor punishable by a fine of not less than \$500 nor more than \$1,000. In addition to the fine imposed upon a person convicted of a violation of this section, the court may order that the convicted person's motor vehicle or vehicles be impounded or immobilized for a period not to exceed one year and that the convicted person pay all towing, impoundment and storage fees or other immobilization costs. Prior to ordering the impoundment or immobilization of any such motor vehicle, the court shall consider the factors established in **subsection (g)** of K.S.A. 8-1567, and amendments thereto. Any personal property in a vehicle impounded or immobilized pursuant to this section may be retrieved prior to or during the period of such impoundment or immobilization.

8-1102 Motor vehicle abandoned on public highway or property open to use by public**(STO §93)****Amended 2011**

- (a)(1) A person shall not use the public highway to abandon vehicles or use the highway to leave vehicles unattended in such a manner as to interfere with public highway operations. When a person leaves a motor vehicle on a public highway or other property open to use by the public, the public agency having jurisdiction of such highway or other property open to use by the public, after 48 hours or when the motor vehicle interferes with public highway operations, may remove and impound the motor vehicle.
- (2) Any motor vehicle which has been impounded as provided in this section for 30 days or more shall be disposed of in the following manner: If such motor vehicle has displayed thereon a registration plate issued by the division of vehicles and has been registered with the division, the public agency shall request verification from the division of vehicles of the last registered owner and any lienholders, if any. Such verification request shall be submitted to the division of vehicles not more than 30 days after such agency took possession of the vehicle. The public agency shall mail a notice by certified mail to the registered owner thereof, addressed to the address as shown on the certificate of registration, and to the lienholder, if any, of record in the county in which the title shows the owner resides, if registered in this state. The notice shall state that if the owner or lienholder does not claim such motor vehicle and pay the removal and storage charges incurred by such public agency on it within 15 days from the date of the mailing of the notice, that it will be sold at public auction to the highest bidder for cash. The notice shall be mailed within 10 days after receipt of verification of the last owner and any lienholders, if any, as provided in this subsection. After 15 days from date of mailing notice, the public agency shall publish a notice once a week for two consecutive weeks in a newspaper of general circulation in the county where such motor vehicle was abandoned and left, which notice shall describe the motor vehicle by name of maker, model, serial number, and owner, if known, and stating that it has been impounded by the public agency and that it will be sold at public auction to the highest bidder for cash if the owner thereof does not claim it within 10 days of the date of the second publication of the notice and pay the removal and storage charges, and publication costs incurred by the public agency. If the motor vehicle does not display a registration plate issued by the division of vehicles and is not registered with the division, the public agency after 30 days from the date of impoundment, shall request verification from the division of vehicles of the last registered owner and any lienholders, if any. Such verification request shall be submitted to the division of vehicles no more than 30 days after such agency took possession of the vehicle. The public agency shall mail a notice by certified mail to the registered owner thereof, addressed to the address as shown on the certificate of registration, and to the lienholder, if any, of record in the county in which the title shows the owner resides, if registered in this state. The notice shall state that if the owner or lienholder does not claim such motor vehicle and pay the removal and storage charges incurred by such public agency on it within 15 days from the date of the mailing of the notice, it will be sold at public auction to the highest bidder for cash. The notice shall be

mailed within 10 days after receipt of verification of the last owner and any lienholders, if any, as provided in this subsection. After 15 days from the date of mailing notice, the public agency shall publish a notice in a newspaper of general circulation in the county where such motor vehicle was abandoned and left, which notice shall describe the motor vehicle by name of maker, model, color and serial number and shall state that it has been impounded by said public agency and will be sold at public auction to the highest bidder for cash, if the owner thereof does not claim it within 10 days of the date of the second publication of the notice and pay the removal and storage charges incurred by the public agency.

When any public agency has complied with the provisions of this section with respect to an abandoned motor vehicle and the owner thereof does not claim it within the time stated in the notice and pay the removal and storage charges and publication costs incurred by the public agency on such motor vehicle, the public agency may sell the motor vehicle at public auction to the highest bidder for cash.

(3) After any sale pursuant to this section, the purchaser may file proof thereof with the division of vehicles, and the division shall issue a certificate of title to the purchaser of such motor vehicle. All moneys derived from the sale of motor vehicles pursuant to this section, after payment of the expenses of the impoundment and sale, shall be paid into the fund of the public agency which is used by it for the construction or maintenance of highways.

(b) Any person who abandons and leaves a vehicle on real property, other than public property or property open to use by the public, which is not owned or leased by such person or by the owner or lessee of such vehicle shall be guilty of criminal trespass, as defined *in K.S.A. 21-5808*, and amendments thereto, and upon request of the owner or occupant of such real property, the public agency in whose jurisdiction such property is situated may remove and dispose of such vehicle in the manner provided in subsection (a), except that the provisions of subsection (a) requiring that a motor vehicle be abandoned for a period of time in excess of 48 hours prior to its removal shall not be applicable to abandoned vehicles which are subject to the provisions of this subsection. Any person removing such vehicle from the real property at the request of such public agency shall have a possessory lien on such vehicle for the costs incurred in removing, towing and storing such vehicle.

(c) Whenever any motor vehicle has been left unattended for more than 48 hours or when any unattended motor vehicle interferes with public highway operations, any law enforcement officer is hereby authorized to move such vehicle or cause to have the vehicle moved as provided in K.S.A. 8-1103 et seq., and amendments thereto.

(d) The notice provisions of this section shall apply to any motor vehicle which has been impounded as provided in K.S.A. 8-1567, and amendments thereto.

(e) Any person attempting to recover a motor vehicle impounded as provided in this section or in accordance with a city ordinance or county resolution providing for the impoundment of motor vehicles, shall show proof of valid registration and ownership of the motor vehicle to the public agency before obtaining the motor vehicle. In addition, the public agency may require payment of all reasonable costs associated with the impoundment of the motor vehicle, including transportation and storage fees, prior to release of the motor vehicle.

8-1327 Unlawful use of identification cards

(a) It shall be unlawful for any person, for any purpose, to:

(1) Display, cause or permit to be displayed, or have in possession, any fictitious, fraudulently altered or fraudulently obtained identification card.

(2) Lend any identification card to any other person or knowingly permit the use thereof by another.

(3) Display or represent any identification card not issued to the person as being the person's card.

(4) Permit any unlawful use of an identification card issued to the person.

(5) Use a false or fictitious name in any application for an identification card, or any renewal or replacement thereof, or knowingly conceal a material fact or otherwise commit a fraud in any such application.

(6) Display or possess any photograph, photostat, duplicate, reproduction or facsimile of an identification card unless authorized by the provisions of this act.

- (7) Photograph, photostat, duplicate or in any way reproduce any identification card or facsimile thereof in such a manner that it could be mistaken for a valid identification card or display or have in possession any such photograph, photostat, duplicate, reproduction or facsimile unless authorized by law.
- (8) Fail or refuse to surrender to the division upon its lawful demand any identification card which has been canceled.
- (9) Display or cause or permit to be displayed any canceled identification card.
- (b) Violation of paragraphs (1) or (9) of subsection (a) is a class B nonperson misdemeanor. Violation of paragraphs (2), (3), (4), (6), (7) or (8) of subsection (a) is a class A nonperson misdemeanor. Violation of paragraph (5) of subsection (a) is a severity level 9, nonperson felony.
- (c) It shall be unlawful for any person to:
- (1) Lend any identification card to or knowingly permit the use of any identification card by any person under 21 years of age for use in the purchase of any alcoholic liquor.
 - (2) Lend any identification card to or knowingly permit the use of any identification card by any person under the legal age for consumption of cereal malt beverage for use in the purchase of any cereal malt beverage.
 - (3) Lend any identification card, driver's license or other form of identification to aid another person in obtaining an identification card or replacement identification card.
 - (4) Display or cause to be displayed or have in possession any fictitious or fraudulently altered identification card by any person under 21 years of age for use in the purchase of any alcoholic liquor or cereal malt beverage.
- (d)(1) Upon a first conviction of a violation of any provision of subsection (c) a person shall be guilty of a class B nonperson misdemeanor and shall be sentenced to not less than 100 hours of public service and fined not less than \$200 nor more than \$500.
- (2) On a second or subsequent conviction of a violation of any provision of subsection (c), a person shall be guilty of a class A nonperson misdemeanor.
- (e) The provisions of this section shall apply to any identification card, driver's license or other form of identification whether issued under the laws of this state or issued under the laws of another state or jurisdiction.

8-1331 Change of address on ID card

Whenever any person after applying for and receiving an identification card acquires an address different from the address shown on the identification card, he or she shall, within fifteen (15) days thereafter, notify the division in writing of the old and new address. The division may thereupon take such action as necessary to insure that the identification card reflects the proper address of the identification card holder.

8-1343a Passenger car—Defined

As used in K.S.A. 8-1343 through 8-1347, and amendments thereto, "passenger car" means a motor vehicle, manufactured or assembled after January 1, 1968, or a motor vehicle manufactured or assembled prior to 1968 which was manufactured or assembled with safety belts, with motive power designed for carrying 10 passengers or fewer, including vans, but does not include a motorcycle, a trailer or a vehicle constructed either on a truck chassis registered for a gross weight of more than 12,000 pounds or a farm truck registered for a gross weight of more than 16,000 pounds.

8-1344 Child passenger safety (STO §182)

- (a) Every driver as defined in K.S.A. 8-1416, and amendments thereto, who transports a child under the age of 14 years in a passenger car as defined in K.S.A. 8-1343a, and amendments thereto, on a highway as defined in K.S.A. 8-1424, and amendments thereto, shall provide for the protection of such child by properly using:
- (1) For a child under the age of four years an appropriate child passenger safety restraining system that meets or exceeds the standards and specifications contained in federal motor vehicle safety standard no. 213;

(2) for a child four years of age, but under the age of eight years and who weighs less than 80 pounds or is less than 4 feet 9 inches in height, an appropriate child passenger safety restraining system that meets or exceeds the standards and specifications contained in federal motor vehicle safety standard no. 213; or
(3) for a child eight years of age but under the age of 14 years or who weighs more than 80 pounds or is more than 4 feet 9 inches in height, a safety belt manufactured in compliance with federal motor vehicle safety standard no. 208.

(b) If the number of children subject to the requirements of subsection (a) exceeds the number of passenger securing locations available for use by children affected by such requirements, and all of these securing locations are in use by children, then there is not a violation of this section.

(c) If a securing location only has a lap safety belt available, the provisions of subsection (a)(2) shall not apply and the child shall be secured in accordance with the provisions of subsection (a)(3).

8-1345 Violation of child passenger restraint requirements

(STO §182)

(a) It shall be unlawful for any driver to violate the provisions of K.S.A. 8-1344, and amendments thereto, and upon conviction such driver shall be punished by a fine of \$60. The failure to provide a child safety restraining system or safety belt for more than one child in the same passenger car at the same time shall be treated as a single violation. Any conviction under the provisions of this subsection shall not be construed as a moving traffic violation for the purpose of K.S.A. 8-255, and amendments thereto.

(b) The \$60 fine provided for in subsection (a) shall be waived if the driver convicted of violating subsection (a)(1) or (a)(2) of K.S.A. 8-1344, and amendments thereto, provides proof to the court that such driver has purchased or acquired the appropriate and approved child passenger safety restraining system. At the time of issuing the citation for a violation of subsection (a)(1) or (a)(2) of K.S.A. 8-1344, and amendments thereto, the law enforcement officer shall notify the driver of the waiver provisions of this subsection.

(c) No driver charged with violating the provisions of this act shall be convicted if such driver produces in the office of the arresting officer or in court proof that the child was 14 years of age or older at the time the violation was alleged to have occurred.

(d) Evidence of failure to secure a child in a child passenger safety restraining system or a safety belt under the provisions of K.S.A. 8-1344, and amendments thereto, shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.

(e) From and after the effective date of this act, and prior to July 1, 2007, a law enforcement officer shall issue a warning citation to anyone violating subsection (a)(2) of K.S.A. 8-1344, and amendments thereto.

8-1348 Driving motor vehicle upon or across real or personal property of another, intentionally damaging same

(STO §125)

It shall be unlawful for any person to drive a motor vehicle upon, across or onto the lawn, sidewalk, yard, farmland, crops or fences or other real or personal property of another person, intentionally damaging the same. The owner of any lawn, sidewalk, yard, farmland, crops or fences or other real or personal property so damaged may bring an action in the district court against the owner of the motor vehicle causing such damage for the amount thereof. It shall be a defense to such action if the owner of the vehicle proves that it had been stolen at the time of the damage.

In addition to awarding damages in any such action, the court may direct the suspension of the registration of such motor vehicle for not to exceed six months, and upon notice to the division of vehicles by such court, such registration shall be so suspended.

8-1402 Alley-Defined

“Alley” means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic.

8-1402a All-terrain vehicle-Defined

“All-terrain vehicle” means any motorized nonhighway vehicle 50 inches or less in width, having a dry weight of 1,500 pounds or less, traveling on three or more nonhighway tires, and having a seat designed to

be straddled by the operator. As used in this section, “nonhighway tire” means any pneumatic tire six inches or more in width, designed for use on wheels with a rim diameter of 14 inches or less.

8-1403 Arterial street–Defined

“Arterial street” means any U.S. or state numbered route, controlled access highway or other major radial or circumferential street or highway designated by local authorities within their respective jurisdictions as part of a major arterial system of streets or highways.

8-1404 Authorized emergency vehicle–Defined

“Authorized emergency vehicle” means such fire department vehicles or police bicycles or police vehicles which are publicly owned; motor vehicles operated by ambulance services permitted by the emergency medical services board under the provisions of K.S.A. 65-6101 et seq., and amendments thereto; wreckers, tow trucks or car carriers, as defined by K.S.A. 66-1329, and amendments thereto, and having a certificate of public service from the state corporation commission; and such other publicly or privately owned vehicles which are designated as emergency vehicles pursuant to K.S.A. 8-2010, and amendments thereto.

8-1405 Bicycle–Defined

“Bicycle” means every device propelled by human power upon which any person may ride, having two (2) tandem wheels, either of which is more than fourteen (14) inches in diameter.

8-1406 Bus–Defined

“Bus” means every motor vehicle designed for carrying more than ten (10) passengers and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

8-1407 Business district–Defined

“Business district” means the territory contiguous to and including a highway when within any six hundred (600) feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks or office buildings, railroad stations and public buildings which occupy at least three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the highway.

8-1410 Controlled-access highway–Defined

“Controlled-access highway” means every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same, except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.

8-1411 Crosswalk–Defined

“Crosswalk” means: (a) That part of a roadway at an intersection included within the connections of the lateral lines of sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or
(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

8-1414 Divided highway–Defined

“Divided highway” means a highway divided into two (2) or more roadways by leaving an intervening space or by a physical barrier or by a clearly indicated dividing section so constructed as to impede vehicular traffic.

8-1416 Driver–Defined

“Driver” means every person who drives or is in actual physical control of a vehicle.

8-1417 Driver’s license–Defined

“Driver’s license” means any license to operate a motor vehicle issued under the laws of this state.

8-1420 Farm tractor–Defined

“Farm tractor” means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry, and such term shall include every self-propelled implement of husbandry.

8-1421 Flammable liquid–Defined

“Flammable liquid” means any liquid which has a flash point of 70 degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closed-cup test device.

8-1422 Foreign vehicle–Defined

“Foreign vehicle” means every vehicle of a type required to be registered hereunder brought into this state from another state, territory or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this state.

8-1423 Gross weight–Defined

“Gross weight” means the weight of a vehicle without load plus the weight of any load thereon.

8-1424 Highway–Defined

“Highway” means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

8-1425 House trailer–Defined

- (a) “House trailer” means: (1) A trailer or semitrailer which is designed, constructed and equipped as a dwelling place, living abode or sleeping place, either permanently or temporarily, and is equipped for use as a conveyance on streets and highways; or
- (2) A trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a house trailer, as defined in paragraph (a), but which is used instead permanently or temporarily for the advertising, sales, display or promotion of merchandise or services, or for any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.
- (b) “House trailer” does not include a manufactured home or a mobile home, as such terms are defined in K.S.A. 58-4202.
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8-1427 Implement of husbandry–Defined

“Implement of husbandry” means every vehicle designed or adapted and used exclusively for agricultural operations and only incidentally moved or operated upon the highways. Such term shall include, but not be limited to, a fertilizer spreader or nurse tank used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, regardless of ownership. For the purpose of this section or for the purpose of the act of which this section is a part, “implement of husbandry” shall not include: (a) A truck mounted with a fertilizer spreader used or manufactured principally to spread animal dung; (b) a mixer-feed truck owned and used by a feedlot, as defined by K.S.A. 47-1501, and amendments thereto, and specially designed and used exclusively for dispensing feed to livestock in such feedlot; or (c) a truck permanently mounted with a spreader used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, regardless of ownership.

8-1428 Intersection–Defined

- “Intersection” means: (a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict; or
- (b) Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of such highways shall be regarded as a separate intersection.
- The junction of an alley with a street or highway shall not constitute an intersection.

8-1428a Interstate system–Defined

“Interstate system” means the national system of interstate and defense highways.

8-1429 Laned roadway–Defined

“Laned roadway” means a roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic.

8-1430 License and license to operate a motor vehicle–Defined

“License” or “license to operate a motor vehicle” means any driver’s license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state, including:

- (a) Any temporary license, or instruction permit;
- (b) the privilege of any person to drive a motor vehicle whether or not such person holds a valid license; and
- (c) any nonresident’s operating privilege.

8-1436 Motor home–Defined

“Motor home” means every motor vehicle designed, used or maintained primarily as a mobile dwelling, office or commercial space.

8-1437 Motor vehicle–Defined

“Motor vehicle” means every vehicle, other than a motorized bicycle or a motorized wheelchair, which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

8-1438 Motorcycle–Defined

“Motorcycle” means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor.

8-1439 Motor-driven cycle–Defined

“Motor-driven cycle” means every motorcycle, including every motor scooter, with a motor which produces not to exceed five brake horsepower, and every bicycle with motor attached, except a motorized bicycle or an electric-assisted bicycle.

8-1439a Motorized bicycle–Defined

“Motorized bicycle” means every device having two tandem wheels or three wheels which may be propelled by either human power or helper motor, or by both, and which has:

- (a) A motor which produces not more than 3.5 brake horsepower;
- (b) a cylinder capacity of not more than 130 cubic centimeters;
- (c) an automatic transmission; and
- (d) the capability of a maximum design speed of no more than 30 miles per hour except a low power cycle.

8-1439c Motorized wheelchair–Defined

“Motorized wheelchair” means any self-propelled vehicle designed specifically for use by a physically disabled person that is incapable of a speed in excess of 15 miles per hour.

8-1440 Nonresident–Defined

“Nonresident” means every person who is not a resident of this state.

8-1441 Nonresident’s operating privilege–Defined

“Nonresident’s operating privilege” means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by such person of a motor vehicle, or the use of a vehicle owned by such person, in this state.

8-1442 Official traffic-control devices–Defined

“Official traffic-control devices” means all signs, signals, markings, and devices, not inconsistent with this act, placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic.

8-1444 Park and parking—Defined

“Park” or “parking” means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

8-1445 Passenger car—Defined

“Passenger car” means every motor vehicle, except motorcycles and motor-driven cycles, designed for carrying ten (10) passengers or less and used for the transportation of persons.

8-1446 Pedestrian—Defined

“Pedestrian” means:

- (a) Any person afoot;
 - (b) any person in a wheelchair, either manually or mechanically propelled, or other low powered, mechanically propelled vehicle designed specifically for use by a physically disabled person; or
 - (c) any person using an electric personal assistive mobility device.
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8-1449 Pole trailer—Defined

“Pole trailer” means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregular shaped loads such as poles, pipes or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

8-1450 Police officer—Defined***Amended 2011***

“Police officer” means every law enforcement officer, as defined *in K.S.A. 21-5111, and amendments thereto*, authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

8-1451 Private road or driveway—Defined

“Private road or driveway” means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

8-1452 Railroad—Defined

“Railroad” means a carrier of persons or property upon cars operated upon stationary rails.

8-1453 Railroad sign or signal—Defined

“Railroad sign or signal” means any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

8-1454 Railroad train—Defined

“Railroad train” means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails.

8-1455 Registration—Defined

“Registration” means the registration certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of vehicles.

8-1456 Residence district—Defined

“Residence district” means the territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three hundred (300) feet or more is improved, in the main, with residences or residences and buildings in use for business.

8-1458 Right-of-way—Defined

“Right-of-way” means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

8-1458a Road construction zone–Defined

“Road construction zone” means the portions of a highway which is identified by posted or moving signs as being a construction or maintenance work area. The zone starts at the first sign identifying the zone and continues until a posted or moving sign indicates that the road construction zone has ended.

8-1459 Roadway–Defined

“Roadway” means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two (2) or more separate roadways the term “roadway” as used herein shall refer to any such roadway separately but not to all such roadways collectively.

8-1460 Safety zone–Defined

“Safety zone” means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

8-1461 School bus–Defined

“School bus” means every motor vehicle defined and designated as a school bus in subsection (g)(1) of K.S.A. 72-8301.

8-1464 Semitrailer–Defined

“Semitrailer” means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle, and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

8-1465 Sidewalk–Defined

“Sidewalk” means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for use by pedestrians.

8-1469 Stand and standing–Defined

“Stand” or “standing” means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

8-1471 Stop–Defined

“Stop” when required means complete cessation from movement.

8-1472 Stop and stopping when prohibited–Defined

“Stop” or “stopping” when prohibited means any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

8-1473 Street–Defined

“Street” means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic.

8-1475 Through highway–Defined

“Through highway” means every highway or portion thereof on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right-of-way to vehicles on such highway in obedience to either a stop sign, yield sign or other traffic-control device, when such signs or devices are erected as provided in this act.

8-1477 Traffic–Defined

“Traffic” means pedestrians, ridden or herded animals, vehicles and other conveyances either singly or together while using any highway for purposes of travel.

8-1478 Traffic-control signal–Defined

“Traffic-control signal” means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

8-1479 Trailer–Defined

“Trailer” means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle, and so constructed that no part of its weight rests upon the towing vehicle.

8-1481 Truck–Defined

“Truck” means every motor vehicle designed, used or maintained primarily for the transportation of property.

8-1482 Truck-camper–Defined

“Truck-camper” means any structure designed, used or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office or commercial space.

8-1483 Truck tractor–Defined

“Truck tractor” means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

8-1484 Urban district–Defined

“Urban district” means the territory contiguous to and including any street which is built up with structures devoted to business, industry or dwelling houses, situated at intervals of less than one hundred (100) feet for a distance of a quarter of a mile or more.

8-1485 Vehicle–Defined

“Vehicle” means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except electric personal assistive mobility devices or devices moved by human power or used exclusively upon stationary rails or tracks.

8-1488 Low-speed vehicle–Defined

“Low-speed vehicle” means any four-wheeled electric vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour and is manufactured in compliance with the national highway and traffic safety administration standards for low-speed vehicles in 49 C.F.R. 571.500.

8-1489 Electric-assisted bicycle–Defined

“Electric-assisted bicycle” means a bicycle with two or three wheels, a saddle, fully operative pedals for human propulsion, and an electric motor. The electric-assisted bicycle’s electric motor must have a power output of no more than 1,000 watts, be incapable of propelling the device at a speed of more than 20 miles per hour on level ground and incapable of further increasing the speed of the device when human power alone is used to propel the device beyond 20 miles per hour.

8-1491 Electric personal assistive mobility device–Defined

“Electric personal assistive mobility device” means a self-balancing two nontandem wheeled device, designed to transport only one person, with an electric propulsion system that limits the maximum speed of the device to 15 miles per hour or less.

8-1492 School crossing guard–Defined

“School crossing guard” means any person 18 years of age and older or any person under 18 years of age who is being directly supervised by a person at least 18 years of age, acting with or without compensation and who is authorized under K.S.A. 8-15,104, and amendments thereto, to supervise, direct, monitor or otherwise assist school children at a street or intersection in the vicinity of a school crosswalk or bus stop.

8-1493 Work-site utility vehicle–Defined

“Work-site utility vehicle” means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 135 inches, has an unladen weight, including fuel and fluids, of more than 800 pounds and is equipped with four or more low pressure tires, a steering wheel and bench or bucket-type seating allowing at least two people to sit side-by-side, and may be equipped with a bed or cargo box for hauling materials. “Work-site utility vehicle” does not include a micro utility truck.

8-1494 Micro utility truck–Defined

“Micro utility truck” means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 160 inches, has an unladen weight, including fuel and fluids,

of more than 1,500 pounds, can exceed 40 miles per hour as originally manufactured and is manufactured with a metal cab. "Micro utility truck" does not include a work-site utility vehicle.

8-1495 Golf cart—Defined

"Golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, an unladen weight of not more than 1,800 pounds, is designed to be and is operated at not more than 25 miles per hour and is designed to carry not more than four persons including the driver.

8-1496 Lightweight roadable vehicle—Defined

Added 2011

"Lightweight roadable vehicle" means a multipurpose motor vehicle that is allowed to be driven on public roadways and is required to be registered with, and flown under the direction of, the federal aviation administration.

Chapter 8

Article 15

8-1501 Application of sections in article 15

(STO §2)

The provisions of this article [8-1501 through 8-15,111] relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except:

- (a) Where a different place is specifically referred to in a given section; and
 - (b) The provisions of K.S.A. 8-1566 to 8-1568, inclusive, and the provisions of article 10 of chapter 8 of the Kansas Statutes Annotated, and any acts amendatory thereof, shall apply upon highways and elsewhere throughout the state.
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8-1503 Required obedience to lawful order of police officer or fireman

(STO §6)

No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer or fireman invested by law with authority to direct, control or regulate traffic. Violation of this section is a misdemeanor.

8-1504 Rights and duties of person riding animal or driving animal-drawn vehicle

(STO §7)

Every person riding an animal or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this article [8-1501 through 8-15,111], except those provisions of this article which by their very nature can have no application.

8-1505 Applicability of traffic laws to highway construction or maintenance

(STO §8)

Unless specifically made applicable, the provisions of this article [8-1501 through 8-15,111] except those contained in K.S.A. 8-1566 to 8-1568, inclusive, shall not apply to persons, motor vehicles and equipment while actually engaged in work upon a highway, but shall apply to such persons and vehicles when traveling to or from such work.

8-1506 Authorized emergency vehicles

(STO §10)

- (a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.
- (b) The driver of an authorized emergency vehicle may:
 - (1) Park or stand, irrespective of the provisions of this article [8-1501 through 8-15,111];
 - (2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
 - (3) Exceed the maximum speed limits so long as such driver does not endanger life or property;
 - (4) Disregard regulations governing direction of movement or turning in specified directions; and
 - (5) Proceed through toll booths on roads or bridges without stopping for payment of tolls, but only after slowing down as may be necessary for safe operation and the picking up or returning of toll cards.
- (c) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of an audible signal meeting the requirements of K.S.A. 8-1738 and visual signals meeting the requirements of K.S.A. 8-1720, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.
- (d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of reckless disregard for the safety of others.

8-1507 Official traffic-control devices; required obedience

(STO §12)

- (a) The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto, placed in accordance with the provisions of this act, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this act.
- (b) No provision of this act for which official traffic-control devices are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that official traffic-control devices are required, such section shall be effective even though no devices are erected or in place.
- (c) Whenever official traffic-control devices are placed in position approximately conforming to the requirements of this act, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.
- (d) Any official traffic-control device placed pursuant to the provisions of this act and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this act, unless the contrary shall be established by competent evidence.

8-1508 Traffic-control signal legend

(STO §13)

Amended 2011

Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend, and said lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

- (a) Green indication. (1) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left, unless a sign at such place prohibits either such turn; but vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
(2) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may enter the intersection cautiously only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.
(3) Unless otherwise directed by a pedestrian-control signal, as provided in K.S.A. 8-1509, and amendments thereto, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.
- (b) Steady yellow indication. (1) Vehicular traffic facing a steady circular yellow or yellow arrow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.
(2) Pedestrians facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian-control signal as provided in K.S.A. 8-1509, and amendments thereto, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown, and no pedestrian shall then start to cross the roadway.
- (c) Steady red indication. (1) Vehicular traffic facing a steady circular red or red arrow signal alone shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection, and shall remain standing until an indication to proceed is shown, except as provided in paragraphs (2), (3) **and** (4) of this subsection. Any turn provided for in said paragraphs (2), (3) **and** (4) shall be governed by the applicable provisions of K.S.A. 8-1545, and amendments thereto.
(2) Unless a sign is in place prohibiting a turn, vehicular traffic facing a steady red signal may cautiously enter the intersection to make a right turn after stopping as required by paragraph (1) of this subsection.

After stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(3) Unless a sign is in place prohibiting a turn, vehicular traffic upon a roadway restricted to one-way traffic facing a steady red signal at the intersection of such roadway with another roadway restricted to one-way traffic which is proceeding to the left of such vehicular traffic, may cautiously enter the intersection to make a left turn after stopping as required by paragraph (1) of this subsection. After stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(4) The driver of a motorcycle or a person riding a bicycle facing any steady red signal, which fails to change to a green light within a reasonable period of time because of a signal malfunction or because the signal has failed to detect the arrival of the motorcycle or bicycle because of its size or weight, shall have the right to proceed subject to the rules stated herein. After stopping, the driver or rider shall yield the right-of-way to any vehicle in or near the intersection or approaching on a roadway so closely as to constitute an immediate hazard during the time such driver or rider is moving across or within the intersection or junction of roadways. Such motorcycle or bicycle traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(5) Unless otherwise directed by a pedestrian-control signal as provided in K.S.A. 8-1509, and amendments thereto, pedestrians facing a steady circular red or red arrow signal alone shall not enter the roadway.

(d) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

8-1509 Pedestrian control signals

(STO §14)

Whenever special pedestrian-control signals exhibiting the words “walk” or “don’t walk” or symbols of “walking person” or “upraised palm” are in place, such signals shall indicate as follows:

- (a) Flashing or steady walk or walking person. Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.
- (b) Flashing or steady don’t walk or upraised palm. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed crossing on the “walk” or “walking person” signal shall proceed to a sidewalk or safety island while the “don’t walk” or upraised palm signal is showing.

8-1510 Flashing traffic signals

(STO §15)

(a) Whenever an illuminated flashing red or yellow light is used in a traffic signal or with a traffic sign it shall require obedience by vehicular traffic as follows:

- (1) Flashing red (stop signal). When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.
- (2) Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(b) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules as set forth in K.S.A. 8-1558¹.

¹**Note:** The statute regarding railroad grade crossings is found at 8-1551.

8-1511 Lane-direction-control signals**(STO §16)**

When lane-direction-control signals are placed over the individual lanes of a street or highway, such signals shall indicate and apply to drivers of vehicles as follows:

- (a) Green indication. Vehicular traffic may travel in any lane over which a green signal is shown.
- (b) Steady yellow indication. Vehicular traffic is thereby warned that a lane control change is being made.
- (c) Steady red indication. Vehicular traffic shall not enter or travel in any lane over which a red signal is shown.
- (d) Flashing yellow indication. Vehicular traffic may use the lane only for the purpose of approaching and making a left turn.

8-1512 Display of unauthorized signs, signals, markings or devices**(STO §17)**

- (a) No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of an official traffic-control device or any railroad sign or signal.
- (b) No person shall place or maintain nor shall any public authority permit upon any highway any official traffic control device bearing thereon any commercial advertising, except for business signs included as part of official motorist service panels or roadside area information panels approved by the secretary of transportation.
- (c) This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.
- (d) Every such prohibited sign, signal or marking is hereby declared to be a public nuisance and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause it to be removed without notice.

8-1513 Interference with official traffic-control devices or railroad signs or signals**(STO §18)**

No person, without lawful authority, shall attempt to or in fact alter, deface, injure, knock down or remove any official traffic-control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any other part thereof. Violation of this section is a misdemeanor.

8-1514 Driving on right side of roadway required**(STO §38)**

- (a) Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:
 - (1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
 - (2) When an obstruction exists making it necessary to drive to the left of the center of the highway, except that any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;
 - (3) Upon a roadway divided into three (3) marked lanes for traffic under the rules applicable thereon; or
 - (4) Upon a roadway restricted to one-way traffic.
- (b) Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.
- (c) Upon any roadway having four (4) or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by official traffic-control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subsection (a)(2) hereof.

However, this subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road or driveway.

8-1515 Overtaking and passing; vehicles proceeding in opposite directions
(STO §39)

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one (1) line of traffic in each direction, each driver shall give to the other at least one-half (1/2) of the main-traveled portion of the roadway as nearly as possible.

8-1516 Overtaking and passing; vehicles proceeding in same directions
(STO §40)

Amended 2011

The following rules shall govern the overtaking and passing of vehicles *and bicycles* proceeding in the same direction, subject to those limitations, exceptions and special rules hereinafter stated:

- (a) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.
- (b) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.
- (c)(1) The driver of a vehicle overtaking a bicycle proceeding in the same direction shall pass to the left thereof at a distance of not less than three feet and shall not again drive to the right side of the roadway until safely clear of the overtaken bicycle.*
- (2) The driver of a vehicle may pass a bicycle proceeding in the same direction in a no-passing zone with the duty to execute the pass only when it is safe to do so.*

8-1517 Overtaking and passing; when passing on the right permitted
(STO §41)

- (a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:
 - (1) When the vehicle overtaken is making or about to make a left turn;
 - (2) upon a roadway with unobstructed pavement of sufficient width for two or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle; or
 - (3) a transit bus authorized under and being operated in accordance with the provisions of K.S.A. 75-5091, and amendments thereto.
- (b) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. Such movement shall not be made by driving off the roadway, except as authorized under K.S.A. 75-5091, and amendments thereto.

8-1518 Overtaking and passing; limitations passing on the left
(STO §42)

Except as otherwise provided in this article [8-1501 through 8-15,111], no vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable and in the event the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within two hundred (200) feet of any approaching vehicle.

8-1519 Driving on left side of roadway prohibited
(STO §43)

- (a) No vehicle shall be driven on the left side of the roadway under the following conditions:

- (1) When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
 - (2) when approaching within 100 feet of or traversing any intersection or railroad grade crossing, except that this section shall not apply to any intersection on a state or county maintained highway located outside city limits unless such intersection is marked by an official department of transportation or county road department traffic control device or pavement marking or both indicating that passing is prohibited and such marking is placed at least 100 feet before the intersection; or
 - (3) when the view is obstructed upon approaching within 100 feet of any bridge, viaduct or tunnel.
- (b) The foregoing limitations shall not apply upon a one-way roadway, nor under the conditions described in subsection (a)(2) of K.S.A. 8-1514 and amendments thereto, nor to the driver of a vehicle turning left into or from an alley, private road or driveway.
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8-1520 No-passing zones

(STO §44)

- (a) The secretary of transportation and local authorities are hereby authorized to determine those portions of any highway under their respective jurisdictions where overtaking and passing or driving on the left side of the roadway would be especially hazardous and by appropriate signs or markings on the roadway may indicate the beginning and end of such zones and when such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof.
 - (b) Where signs or markings are in place to define a no-passing zone as set forth in subsection (a), no driver at any time shall drive on the left side of the roadway within such no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone throughout its length.
 - (c) This section does not apply under the conditions described in subsection (a)(2) of K.S.A. 8-1514, nor to the driver of a vehicle turning left into or from an alley, private road or driveway.
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8-1520a Unlawful passing of stopped emergency vehicle or authorized vehicle engaged in highway construction

(STO §61.1)

- (a) The driver of a vehicle shall not overtake and pass another vehicle when approaching within 100 feet of:
 - (1) A stationary authorized emergency vehicle on a highway that consists of two lanes carrying traffic in opposite directions, when the authorized emergency vehicle is making use of visual signals meeting the requirements of K.S.A. 8-1720, and amendments thereto, or subsection (d) of K.S.A. 8-1722, and amendments thereto; or
 - (2) a stationary authorized vehicle which is obviously and actually engaged in work on a highway that consists of two lanes carrying traffic in opposite directions, when such vehicle displays flashing lights meeting the requirements of K.S.A. 8-1731, and amendments thereto.
 - (b) From and after the effective date of this act, and prior to July 1, 2007, a law enforcement officer shall issue a warning citation to anyone violating the provisions of paragraph (2) of subsection (a).
 - (c) This section shall be part of and supplemental to the uniform act regulating traffic on highways.
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8-1521 One-way highways—Rotary traffic islands

(STO §45)

- (a) The secretary of transportation and local authorities with respect to highways under their respective jurisdictions may designate any highway, roadway, part of a roadway or specific lanes upon which vehicular traffic shall proceed in one (1) direction at all or such times as shall be indicated by official traffic-control devices.
- (b) Upon a roadway so designated for one-way traffic, a vehicle shall be driven only in the direction designated at all or such times as shall be indicated by official traffic-control devices.
- (c) A vehicle passing around a rotary traffic island shall be driven only to the right of such island.

8-1522 Driving on roadways laned for traffic; driving in right lane required**(STO §46)**

Whenever any roadway has been divided into two or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith shall apply.

- (a) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.
- (b) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction when such center lane is clear of traffic within a safe distance, or in preparation for making a left turn or where such center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by official traffic-control devices.
- (c) Upon a highway located outside the corporate limits of any city divided into two lanes of traffic proceeding in the same direction, all vehicles shall be driven in the right lane except when:
 - (1) Overtaking and passing another vehicle;
 - (2) preparing to make a proper left turn;
 - (3) otherwise directed by official traffic-control devices; or
 - (4) otherwise required by other provisions of law.
- (d) Upon a highway located outside the corporate limits of any city divided into three or more lanes of traffic proceeding in the same direction, vehicles shall not be driven in the far left lane except when:
 - (1) Overtaking and passing another vehicle;
 - (2) preparing to make a proper left turn;
 - (3) otherwise directed by official traffic-control devices; or
 - (4) otherwise required by other provisions of law.
- (e) The provisions of subsections (c) and (d) shall not apply to authorized emergency vehicles, law enforcement vehicles, Kansas turnpike authority vehicles or department of transportation vehicles performing construction or maintenance work.
- (f) Official traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such device.
- (g) Official traffic-control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device.
- (h) From and after July 1, 2009, and prior to July 1, 2010, a law enforcement officer shall issue a warning citation to anyone violating the provisions of subsection (c) or (d).

8-1523 Following another vehicle too closely**(STO §47)**

- (a) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.
- (b) The driver of any truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another truck or motor vehicle drawing another vehicle shall leave sufficient space, whenever conditions permit, so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a truck or motor vehicle drawing another vehicle from overtaking and passing any vehicle or combination of vehicles.
- (c) Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade, whether or not towing other vehicles, shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to funeral processions.

8-1524 Driving limitations on divided highways and controlled-access highways**(STO §48)**

No person shall:

- (a) Drive a vehicle over, upon or across any intervening space, physical barrier or a clearly indicated dividing section so constructed as to impede vehicular traffic between roadways on divided highways;
- (b) make a left turn or a semicircular or “U” turn on the interstate system;
- (c) make a left turn or a semicircular or “U” turn over, across or within any intervening space, physical barrier or a clearly indicated dividing section so constructed as to impede vehicular traffic between roadways on a divided highway, except this subsection (c) does not prohibit making a left turn or a semicircular or “U” turn through an opening provided and surfaced for the purpose of public use for such turning movement;
- (d) make a left turn or a semicircular or “U” turn on a divided highway wherever such turn is specifically prohibited by a sign or signs placed by the authority having jurisdiction over that highway;
- (e) drive any vehicle on a divided highway except on the proper roadway provided for that purpose and in the proper direction and to the right of the intervening space, physical barrier or a clearly indicated dividing section so constructed as to impede vehicular traffic between roadways unless directed or permitted to use another roadway by official traffic-control devices or police officers;
- (f) drive any vehicle onto or from any controlled-access highway except at such entrances and exits as are established by the authority having jurisdiction over such highway;
- (g) use controlled-access highway right of way for parking vehicles or mobile equipment, or stacking of materials or equipment, for the purpose of servicing adjacent property; or
- (h) stop, stand or park vehicles on the right of way of controlled-access highways except for:
 - (1) Stopping of disabled vehicles;
 - (2) stopping to give aid in an emergency;
 - (3) stopping in compliance with directions of a police officer or other emergency or safety official;
 - (4) stopping due to illness or incapacity of driver; or
 - (5) parking in designated parking or rest areas.

8-1525 Use of controlled-access highways and facilities

- (a) The secretary of transportation, by duly adopted resolution or order, and local authorities by ordinance or resolution, may regulate or prohibit the use of any controlled-access highway or facility within their respective jurisdictions by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic.
- (b) The secretary or the local authority adopting any such prohibition shall erect and maintain official traffic-control devices on the controlled-access highway or facility on which such prohibitions are applicable, and when in place no person shall disobey the restrictions stated on such devices. Violation of this subsection (b) is a misdemeanor.

8-1526 Right-of-way; Approaching or entering intersection

(STO §57)

- (a) When two (2) vehicles approach or enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.
- (b) The right-of-way rule declared in subsection (a) is modified at through highways and otherwise as stated in this article [8-1501 through 8-15,111].

8-1527 Right-of-way; Turning left

(STO §58)

The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

8-1528 Stop signs and yield signs

(STO §59)

- (a) Preferential right-of-way may be indicated by stop signs or yield signs as authorized in K.S.A. 8-2008, and amendments thereto.
- (b) Except when directed to proceed by a police officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the

intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After having stopped, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways. Such driver shall yield the right-of-way to pedestrians within an adjacent crosswalk.

(c) The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways. Such driver shall yield the right-of-way to pedestrians within an adjacent crosswalk. If a driver is involved in a collision with a vehicle in the intersection or junction of roadways or with a pedestrian in an adjacent crosswalk, after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of the driver's failure to yield the right-of-way.

8-1529 Entering or crossing roadway

(STO §60)

The driver of a vehicle about to enter or cross a roadway from any place other than another roadway shall yield the right-of-way to all vehicles approaching on the roadway to be entered or crossed.

8-1530 Duty of driver on approach of authorized emergency vehicle

(STO §61)

(a) Upon the immediate approach of an authorized emergency vehicle making use of an audible signal meeting the requirements of subsection (d) of K.S.A. 8-1738, and amendments thereto, and visual signals meeting the requirements of K.S.A. 8-1720, and amendments thereto, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall do the following unless otherwise directed by a police officer:

(1) Yield the right-of-way;

(2) immediately drive to a position parallel to and as close as possible to the right-hand edge or curb of the roadway clear of any intersection; and

(3) stop and remain in such position until the authorized emergency vehicle has passed.

(b) The driver of a motor vehicle upon approaching a stationary authorized emergency vehicle, when the authorized emergency vehicle is making use of visual signals meeting the requirements of K.S.A. 8-1720, and amendments thereto, or subsection (d) of K.S.A. 8-1722, and amendments thereto, shall do either of the following:

(1) If the driver of the motor vehicle is traveling on a highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible and with due regard to the road, weather and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary authorized emergency vehicle; or

(2) if the driver is not traveling on a highway of a type described in paragraph (1), or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle and maintain a safe speed for the road, weather and traffic conditions.

(c) From and after the effective date of this act and prior to July 1, 2001, a law enforcement officer shall issue a warning citation to anyone violating the provisions of subsection (b).

(d) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

8-1531 Highway construction or maintenance operations; duty of driver**(STO §62)**

- (a) The driver of a vehicle shall yield the right-of-way to any authorized vehicle or pedestrian actually engaged in work upon a highway within any road construction zone, as defined in K.S.A. 8-1458a, indicated by official traffic-control devices.
- (b) The driver of a vehicle shall yield the right-of-way to any authorized vehicle which is obviously and actually engaged in work upon a highway whenever such vehicle displays flashing lights meeting the requirements of K.S.A. 8-1731, and amendments thereto.
- (c) The driver of a motor vehicle upon approaching a stationary authorized vehicle which is obviously and actually engaged in work upon a highway, when such authorized vehicle is displaying flashing lights meeting the requirements of K.S.A. 8-1731, and amendments thereto, shall do either of the following:
- (1) If the driver of the motor vehicle is traveling on a highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible and with due regard to the road, weather and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary authorized vehicle; or
 - (2) if the driver is not traveling on a highway of a type described in paragraph (1), or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle and maintain a safe speed for the road, weather and traffic conditions.
- (d) From and after the effective date of this act and prior to July 1, 2007, a law enforcement officer shall issue a warning citation to anyone violating the provisions of subsection (c).
- (e) This section shall not operate to relieve the driver of an authorized vehicle from the duty to drive with due regard for the safety of all persons using the highway.

8-1531a Road construction zone, failing to comply with traffic regulations in

It shall be unlawful for any person to fail, neglect or refuse to comply with restrictions or traffic regulations in a road construction zone or fail to comply with traffic orders or traffic directions by a flagman in a road construction zone.

8-1532 Pedestrian—Obedience to official traffic-control devices**(STO §63)**

- (a) A pedestrian shall obey the instructions of any official traffic-control device specifically applicable to such pedestrian, unless otherwise directed by a police officer.
- (b) Pedestrians shall be subject to traffic and pedestrian-control signals as provided in K.S.A. 8-1508 and 8-1509.
- (c) At all other places, pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this chapter¹.

¹**Note:** So in the original text. Legislative intent may have been "article."

8-1533 Pedestrian—Right-of-way at crosswalks**(STO §64)**

- (a) When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.
- (b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.
- (c) Subsection (a) shall not apply under the conditions stated in subsection (b) of K.S.A. 8-1534.
- (d) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

8-1534 Pedestrian—Crossing roadway at location other than crosswalk**(STO §65)**

- (a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.
- (b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.
- (c) Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.
- (d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.

8-1535 Pedestrian—Drivers to exercise due care**(STO §66)**

Notwithstanding other provisions of this article [8-1501 through 8-15,111] or the provisions of any local ordinance, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any obviously confused or incapacitated person.

8-1536 Pedestrian—Movement in crosswalk**(STO §67)**

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

8-1537 Pedestrian—Use of roadways**(STO §68)**

- (a) Where a sidewalk is provided and its use is practicable, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.
- (b) Where a sidewalk is not available, any pedestrian walking along and upon a highway shall walk only on a shoulder, as far as practicable from the edge of the roadway.
- (c) Where neither a sidewalk nor a shoulder is available, any pedestrian walking along and upon a highway shall walk as near as practicable to an outside edge of the roadway, and, if on a two-way roadway, shall walk only on the left side of the roadway.
- (d) Except as otherwise provided in this article [8-1501 through 8-15,111], any pedestrian upon a roadway shall yield the right-of-way to all vehicles upon the roadway.

8-1538 Pedestrian—Soliciting rides, business or contributions**(STO §69)**

- (a) No person shall stand in a roadway for the purpose of soliciting a ride.
- (b) No person shall stand on a highway for the purpose of soliciting employment, business or contributions from the occupant of any vehicle.
- (c) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.
- (d) The soliciting of contributions under subsection (b) shall not be prohibited, if such person or organization has first obtained a permit authorizing such soliciting from the local authorities in their respective jurisdictions.

8-1539 Driving through safety zone**(STO §70)**

No vehicle shall at any time be driven through or within a safety zone.

8-1540 Pedestrian—Right-of-way on sidewalks**(STO §71)**

The driver of a vehicle shall yield the right-of-way to any pedestrian on a sidewalk.

8-1541 Pedestrians must yield right-of-way to emergency vehicle**(STO §72)**

- (a) Upon the immediate approach of an authorized emergency vehicle making use of an audible signal meeting the requirements of subsection (d) of K.S.A. 8-1738 and visual signals meeting the requirements of K.S.A. 8-1720, or of a police vehicle properly and lawfully making use of an audible signal only, every pedestrian shall yield the right-of-way to the authorized emergency vehicle.
- (b) This section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway nor from the duty to exercise due care to avoid colliding with any pedestrian.
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8-1542 Blind pedestrian's right-of-way**(STO §73)**

The driver of a vehicle shall yield the right-of-way to any blind pedestrian carrying a clearly visible white cane or accompanied by a guide dog.

8-1543 Pedestrians under influence of alcohol or drugs**(STO §74)**

A pedestrian who is under the influence of alcohol or any drug to a degree which renders such pedestrian a hazard shall not walk or be upon a highway except on a sidewalk. Violation of this section is a misdemeanor.

8-1544 Obedience of pedestrian to bridge and railroad signals required**(STO §75)**

- (a) No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate or barrier after a bridge operation signal indication has been given.
- (b) No pedestrian shall pass through, around, over or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed.
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8-1545 Required position and method of turning vehicles**(STO §49)**

- (a) The driver of a vehicle intending to turn shall do so as follows:
- (1) Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
 - (2) Left turns. The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable a left turn at an intersection shall be made to the left of the center of the intersection, and any left turn shall be made so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered.
- (b) Two-way left turn lanes. Where a special lane for making left turns by drivers proceeding in opposite directions has been indicated by official traffic control devices: (1) A left turn shall not be made from any other lane; (2) a vehicle shall not be driven in the lane except when preparing for or making a left turn from or into the roadway or when preparing for or making a U-turn when otherwise permitted by law.
- (c) The secretary of transportation and local authorities in their respective jurisdictions may cause official traffic-control devices to be placed and thereby require and direct that a different course from that specified in this section be traveled by turning vehicles, and when such devices are so placed no driver shall turn a vehicle other than as directed and required by such devices.
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8-1546 Limitations on "U" turns**(STO §§51 & 52¹)**

- (a) The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety and without interfering with other traffic.
- (b) No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred (500) feet.

¹Note: STO §51 relates to subsection (a), STO §52 relates to subsection (b).

8-1547 Starting parked vehicle**(STO §53)**

No person shall start a vehicle which is stopped, standing or parked unless and until such movement can be made with reasonable safety.

8-1548 Turning movements and required signals**(STO §54)**

- (a) No person shall turn a vehicle or move right or left upon a roadway unless and until such movement can be made with reasonable safety, nor without giving an appropriate signal in the manner hereinafter provided.
 - (b) A signal of intention to turn or move right or left when required shall be given continuously during not less than the last one hundred (100) feet traveled by the vehicle before turning.
 - (c) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal, in the manner provided herein, to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.
 - (d) The signals required on vehicles by subsection (b) of K.S.A. 8-1549 shall not be flashed on one side only on a disabled vehicle, flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear, nor be flashed on one side only of a parked vehicle except as may be necessary for compliance with this section.
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8-1549 Methods of giving notice of intention to turn**(STO §55)**

The driver of any motor vehicle or combination of vehicles which is required to be equipped with electric turn signal lamps by K.S.A. 8-1708 shall give any required notice of intention to turn by means of electric turn signals meeting the requirements of subsection (b) of K.S.A. 8-1721. The driver of any other motor vehicle or combination of vehicles shall give such notice by means of hand and arm signals, as provided in K.S.A. 8-1550, or by such electric turn signals.

8-1550 Hand and arm signals**(STO §56)**

All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

- (a) Left turn. Hand and arm extended horizontally.
 - (b) Right turn. Hand and arm extended upward.
 - (c) Stop or decrease speed. Hand and arm extended downward.
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8-1551 Obedience to signal indicating approach of train**(STO §76)**

- (a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad, and shall not proceed until he or she can do so safely. The foregoing requirements shall apply when:
 - (1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
 - (2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
 - (3) A railroad train approaching within approximately one thousand five hundred (1,500) feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; or
 - (4) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
- (b) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

8-1552 Dangerous railroad crossing**(STO §77)**

The secretary of transportation and local authorities, with the approval of the secretary, are hereby authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs thereat.

When such stop signs are erected, the driver of any vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad and shall proceed only upon exercising due care.

8-1553 Certain vehicles required to stop at railroad grade crossings**(STO §78)**

(a) Except as provided in subsection (b), the driver of any vehicle described in rules and regulations issued pursuant to subsection (c), before crossing at grade any track or tracks of a railroad, shall stop such vehicle within 50 feet but not less than 15 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, and shall not proceed until such driver can do so safely. After stopping as required and upon proceeding when it is safe to do so, the driver of any vehicle shall cross only in such gear of the vehicle that there will be no necessity for manually changing gears while traversing such crossings and the driver shall not manually shift gears while crossing the track or tracks.

(b) This section shall not apply at:

- (1) Any railroad grade crossing at which traffic is controlled by a police officer or human flagman;
- (2) any railroad grade crossing at which traffic is controlled by a functioning highway traffic signal transmitting a green indication which, under local law, permits a vehicle to proceed across the railroad tracks without slowing or stopping;
- (3) any abandoned railroad grade crossing which is marked with a sign indicating that the rail line is abandoned;
- (4) any industrial or spur line railroad grade crossing marked with a sign reading "Exempt." Such exempt signs shall be erected only by or with the consent of the appropriate state or local authority;
- (5) a railroad grade crossing used exclusively for industrial switching purposes, within a business district defined in K.S.A. 8-1407, and amendments thereto.

(c) The secretary of transportation, in conjunction with the state corporation commission, shall adopt such rules and regulations as may be necessary describing the vehicles which must comply with the stopping requirements of this section. Such rules and regulations shall correlate with and so far as possible conform to the federal motor carrier safety regulations of the United States department of transportation.

8-1554 Moving heavy equipment at railroad grade crossings**(STO §79)**

(a) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of ten (10) or less miles per hour or a vertical body or load clearance of less than one-half (1/2) inch per foot of the distance between any two (2) adjacent axles or in any event of less than nine (9) inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.

(b) Notice of any such intended crossing shall be given to a station agent of such railroad and a reasonable time be given to such railroad to provide proper protection at such crossing.

(c) Before making any such crossing, the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen (15) feet nor more than fifty (50) feet from the nearest rail of such railroad, and while so stopped, shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

(d) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under the direction of the flagman.

8-1555 Vehicle emerging from alley, building, private road or driveway**(STO §80)**

The driver of a vehicle emerging from an alley, building, private road or driveway within a business or residence district shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across such alley, building entrance, road or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where the driver has a view of approaching traffic thereon.

8-1556 Overtaking and passing school bus**(STO §81)**

(a) The driver of a vehicle meeting or overtaking from either direction any school bus stopped on the highway shall stop before reaching such school bus when there is in operation on the school bus the flashing red lights specified in subsection (a) of K.S.A. 8-1730, and amendments thereto, and the driver shall not proceed until such school bus resumes motion or the flashing red lights and the stop signal arm are no longer actuated.

(b) Every school bus shall be equipped with red visual signals meeting the requirements of subsection (a) of K.S.A. 8-1730, and amendments thereto, which may be actuated by the driver of the school bus whenever but only whenever such vehicle is stopped on the highway for the purpose of receiving or discharging school children. A school bus driver shall not actuate the special visual signals:

- (1) At intersections or other places where traffic is controlled by traffic-control signals or police officers; or
- (2) in designated school bus loading areas where the bus is entirely off the roadway.

(c) Every school bus shall bear upon the front and rear thereof plainly visible signs containing the words "school bus" in letters not less than eight inches in height.

When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school or to or from interschool or intraschool functions or activities, or for maintenance, repair or storage purposes all markings thereon indicating "school bus" shall be covered or concealed.

(d) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled-access highway and the school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

(e) The provisions of this section shall be subject to the provisions contained in K.S.A. 8-2009a, and amendments thereto.

8-1556a Passing church and day care program buses**(STO §82)**

(a) The driver of a vehicle meeting or overtaking from either direction any church bus or day care program bus stopped on the highway shall stop before reaching such church bus or day care program bus when there is in operation on said church bus or day care program bus the flashing red lights specified in subsection (a) of K.S.A. 8-1730, and said driver shall not proceed until such church bus or day care program bus resumes motion or said driver is signaled by the church bus or day care program bus driver to proceed or the flashing red lights and stop signal arm, if any, are no longer actuated.

(b) If a church bus or day care program bus is equipped with visual signals permitted by subsection (b) of K.S.A. 8-1730a, such signals may be actuated by the driver of said church bus or day care program bus only when such vehicle is stopped on the highway for the purpose of receiving or discharging passengers. A church bus or day care program bus driver shall not actuate said special visual signals: (1) At intersections or other places where traffic is controlled by traffic-control signals or police officers; or (2) in designated loading areas where the bus is entirely off the roadway.

(c) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a church bus or day care program bus which is on a separate roadway or when upon a controlled-access highway and the church bus or day care program bus is stopped in a loading zone which is part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

8-1557 Basic rule governing speed of vehicles**(STO §32)**

No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual hazards then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.

8-1558 Maximum speed limits**(STO §33)****Amended 2011**

(a) Except as provided in subsection (b) and except when a special hazard exists that requires lower speed for compliance with K.S.A. 8-1557, and amendments thereto, the limits specified in this subsection or established as authorized by law shall be maximum lawful speeds, and no person shall operate a vehicle at a speed in excess of such maximum limits:

(1) In any urban district, 30 miles per hour;

(2) on any separated multilane highway, as designated and posted by the secretary of transportation, *75 miles per hour*;

(3) on any county or township highway, 55 miles per hour; and

(4) on all other highways, 65 miles per hour.

(b) No person shall drive a school bus to or from school, or interschool or intraschool functions or activities, at a speed in excess of the maximum speed limits provided in subsection (a), except that the board of education of any school district may establish by board policy lower maximum speed limits for the operation of such district's school buses. The provisions of this subsection relating to school buses shall apply to buses used for the transportation of students enrolled in community colleges or area vocational schools, when such buses are transporting students to or from school, or functions or activities.

(c) The maximum speed limits in this section may be altered as authorized in K.S.A. 8-1559 and 8-1560, and amendments thereto.

8-1561 Minimum speed regulation**(STO §34)**

(a) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

(b) Whenever the secretary of transportation or local authorities within their respective jurisdictions determine on the basis of an engineering and traffic investigation that slow speeds on any highway or part of a highway impede the normal and reasonable movement of traffic, the secretary or any such local authority may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law and that limit shall be effective when posted upon appropriate fixed or variable signs.

8-1562 Special speed limitation on motor-driven cycles**(STO §35)**

No person shall operate any motor-driven cycle at any time mentioned in K.S.A. 8-1703 at a speed greater than thirty-five (35) miles per hour unless such motor-driven cycle is equipped with a head lamp or lamps which are adequate to reveal a person or vehicle at a distance of three hundred (300) feet ahead.

8-1563 Special speed limitations applicable to certain vehicles and portions of highways

(a) No person shall drive a vehicle which is towing a house trailer at a speed greater than a maximum of fifty-five (55) miles per hour.

(b) No person shall drive any vehicle equipped with solid rubber tires at a speed greater than a maximum of ten (10) miles per hour.

- (c) No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure, when such structure is signposted as provided in this section.
- (d) The secretary of transportation and local authorities on highways under their respective jurisdictions may conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if it shall thereupon find that such structure cannot with safety to itself withstand vehicles traveling at the speed otherwise permissible under this article [8-1501 through 8-15,111], the secretary or local authority shall determine and declare the maximum speed of vehicles which such structure can safely withstand, and shall cause or permit suitable signs stating such maximum speed to be erected and maintained not less than one hundred (100) feet before each end of such structure.
- (e) Upon the trial of any person charged with a violation of this section, proof of said determination of the maximum speed by said secretary and the existence of said signs shall constitute conclusive evidence of the maximum speed which can be maintained with safety to such bridge or structure.
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8-1565 Racing on highways

(STO §37)

- (a) No person shall drive any vehicle in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the purpose of making a speed record, and no person shall in any manner participate in any such race, competition, contest, test or exhibition.
- (b) As used in this section, “drag race” means the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to out-distance each other, or the operation of one or more vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of such vehicle or vehicles within a certain distance or time limit.
- (c) As used in this section, “racing” means the use of one or more vehicles in an attempt to out-gain, out-distance or prevent another vehicle from passing, to arrive at a given destination ahead of another vehicle or vehicles, or to test the physical stamina or endurance of drivers over long distance driving routes.
- (d) Violation of this section is a misdemeanor.
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8-1566 Reckless driving

(STO §29)

- (a) Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.
- (b) Except as provided in K.S.A. 8-2,142, violation of this section is a misdemeanor. Upon a first conviction of a violation of this section, a person shall be sentenced to not less than five days nor more than 90 days imprisonment or fined not less than \$25 nor more than \$500, or both such fine and imprisonment. On a second or subsequent conviction of a violation of this section, a person shall be sentenced to not less than 10 days nor more than six months imprisonment, or fined not less than \$50 nor more than \$500 or both such fine and imprisonment.
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8-1567 Driving under influence of alcohol or drugs

(STO §30)

Amended 2011

- (a) ***Driving under the influence is operating or attempting*** to operate any vehicle within this state while:
- (1) The alcohol concentration in the person’s blood or breath as shown by any competent evidence, including other competent evidence, as defined in paragraph (1) of subsection (f) of K.S.A. 8-1013, and amendments thereto, is .08 or more;
 - (2) the alcohol concentration in the person’s blood or breath, as measured within ***three*** hours of the time of operating or attempting to operate a vehicle, is .08 or more;
 - (3) under the influence of alcohol to a degree that renders the person incapable of safely driving a vehicle;
 - (4) under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely driving a vehicle;

(5) under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely driving a vehicle; *or*

(6) The person is a habitual user of any narcotic, hypnotic, somnifacient or stimulating drug.

(b)(1) Driving under the influence is:

(A) On a first conviction a class B, nonperson misdemeanor. *The person convicted shall be* sentenced to not less than 48 consecutive hours nor more than six months' imprisonment, or in the court's discretion 100 hours of public service, and fined not less than \$750 nor more than \$1,000. The person convicted *shall* serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole. *The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-6609, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment;*

(B) on a second conviction a class A, nonperson misdemeanor. *The person convicted shall be* sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,250 nor more than \$1,750. The person convicted *shall* serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. *The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day.* The court may place the person convicted under a house arrest program pursuant to *K.S.A. 21-6609*, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment. *The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 120 hours;*

(C) on a third conviction a class A, nonperson misdemeanor, except as provided in subsection (b)(1)(D). *The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,750 nor more than \$2,500. The person convicted 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 mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 240 hours of confinement. Such 240 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-6609, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 240 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 240 hours;*

(D) on a third conviction a nonperson felony *if the person has a prior conviction which occurred within the preceding 10 years, not including any period of incarceration. The person convicted shall be* sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,750 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduc-

tion of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this **subsection** may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. ***The person convicted, if placed into a work release program, shall serve a minimum of 240 hours of confinement. Such 240 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day.*** The court may place the person convicted under a house arrest program pursuant to ***K.S.A. 21-6609***, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment. ***The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 240 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 240 hours; and***

(E) on a fourth or subsequent conviction a nonperson felony. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined \$2,500. The person convicted 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 mandated by this paragraph may be served in a work release program only after such person has served 72 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 240 hours of confinement. Such 240 hours of confinement shall be a period of at least 72 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-6609, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 72 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 240 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 240 hours.

(2) The court may order that the term of imprisonment imposed pursuant to subsection (b)(1)(D) or (b)(1)(E) be served in a state facility in the custody of the secretary of corrections in a facility designated by the secretary for the provision of substance abuse treatment pursuant to the provisions of K.S.A. 21-6804, and amendments thereto. The person shall remain imprisoned at the state facility only while participating in the substance abuse treatment program designated by the secretary and shall be returned to the custody of the sheriff for execution of the balance of the term of imprisonment upon completion of or the person's discharge from the substance abuse treatment program. Custody of the person shall be returned to the sheriff for execution of the sentence imposed in the event the secretary of corrections determines: (A) That substance abuse treatment resources or the capacity of the facility designated by the secretary for the incarceration and treatment of the person is not available; (B) the person fails to meaningfully participate in the treatment program of the designated facility; (C) the person is disruptive to the security or operation of the designated facility; or (D) the medical or mental health condition of the person renders the person unsuitable for confinement at the designated facility. The determination by the secretary that the person either is not to be admitted into the designated facility or is to be transferred from the designated facility is not subject to review. The sheriff shall be responsible for all transportation expenses to and from the state correctional facility.

(3) In addition, for any conviction pursuant to subsection (b)(1)(C), (b)(1)(D) or (b)(1)(E), at the time of the filing of the judgment form or journal entry as required by K.S.A. 22-3426 or K.S.A. 21-6711, and amendments thereto, the court shall cause a certified copy to be sent to the officer having the offender in charge. The court shall determine whether the offender, upon release from imprisonment, shall be

supervised by community correctional services or court services based upon the risk and needs of the offender. The risk and needs of the offender shall be determined by use of a risk assessment tool specified by the Kansas sentencing commission. The law enforcement agency maintaining custody and control of a defendant for imprisonment shall cause a certified copy of the judgment form or journal entry to be sent to the supervision office designated by the court and upon expiration of the term of imprisonment shall deliver the defendant to a location designated by the supervision office designated by the court. After the term of imprisonment imposed by the court, the person shall be placed on supervision to community correctional services or court services, as determined by the court, for a mandatory one-year period of supervision, which such period of supervision shall not be reduced. During such supervision, the person shall be required to participate in a multidisciplinary model of services for substance use disorders facilitated by a department of social and rehabilitation services designated care coordination agency to include assessment and, if appropriate, referral to a community based substance use disorder treatment including recovery management and mental health counseling as needed. The multidisciplinary team shall include the designated care coordination agency, the supervision officer, the social and rehabilitation services department designated treatment provider and the offender. Any violation of the conditions of such supervision may subject such person to revocation of supervision and imprisonment in jail for the remainder of the period of imprisonment, the remainder of the supervision period, or any combination or portion thereof.

(4) In addition, prior to sentencing for any conviction, the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.

(c) Any person convicted of violating this section or an ordinance which prohibits the acts that this section prohibits who had one or more children under the age of 14 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other minimum mandatory penalty imposed for a violation of this section or an ordinance which prohibits the acts that this section prohibits. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.

(d) If a person is charged with a violation of this section involving drugs, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.

(e) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.

(f) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.

(g)(1) Except as provided in paragraph (5), in addition to any other penalty which may be imposed upon a first conviction of a violation of this section, the court may order that the convicted person's motor vehicle or vehicles be impounded or immobilized for a period not to exceed one year and that the convicted person pay all towing, impoundment and storage fees or other immobilization costs.

(2) The court shall not order the impoundment or immobilization of a motor vehicle driven by a person convicted of a violation of this section if the motor vehicle had been stolen or converted at the time it was driven in violation of this section.

(3) Prior to ordering the impoundment or immobilization of a motor vehicle or vehicles owned by a person convicted of a violation of this section, the court shall consider, but not be limited to, the following:

- (A) Whether the impoundment or immobilization of the motor vehicle would result in the loss of employment by the convicted person or a member of such person's family; and
- (B) whether the ability of the convicted person or a member of such person's family to attend school or obtain medical care would be impaired.
- (4) Any personal property in a vehicle impounded or immobilized pursuant to this subsection may be retrieved prior to or during the period of such impoundment or immobilization.
- (5) As used in this subsection, the convicted person's motor vehicle or vehicles shall include any vehicle leased by such person. If the lease on the convicted person's motor vehicle subject to impoundment or immobilization expires in less than one year from the date of the impoundment or immobilization, the time of impoundment or immobilization of such vehicle shall be the amount of time remaining on the lease.
- (h)** Prior to filing a complaint alleging a violation of this section, a prosecutor shall request and shall receive from the:
- (1)** Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; *and*
- (2)** Kansas bureau of investigation central repository all criminal history record information concerning such person.
- (i)** The court shall electronically report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings *on* a complaint alleging a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.
- (j)** For the purpose of determining whether a conviction is a first, second, third, fourth or subsequent conviction in sentencing under this section:
- (1) "Conviction" includes being convicted of a violation of this section or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section;
- (2) "conviction" includes being convicted of a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits or entering into a diversion agreement in lieu of further criminal proceedings in a case alleging a violation of such law, ordinance or resolution;
- (3) *only convictions occurring on or after July 1, 2001***, shall be taken into account when determining the sentence to be imposed for a first, second, third, fourth or subsequent offender;
- (4) it is irrelevant whether an offense occurred before or after conviction for a previous offense; and
- (5) a person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section, and amendments thereto, or an ordinance which prohibits the acts of this section, and amendments thereto, only once during the person's lifetime.
- (k)** Upon conviction of a person of a violation of this section or a violation of a city ordinance or county resolution prohibiting the acts prohibited by this section, the division, upon receiving a report of conviction, shall suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.
- (l)(1)** Nothing contained in this section shall be construed as preventing any city from enacting ordinances, or any county from adopting resolutions, declaring acts prohibited or made unlawful by this act as unlawful or prohibited in such city or county and prescribing penalties for violation thereof.
- (2)** The minimum penalty prescribed by any such ordinance or resolution shall not be less than the minimum penalty prescribed by this *section* for the same violation, and the maximum penalty in any such ordinance or resolution shall not exceed the maximum penalty prescribed for the same violation.
- (3)** On and after July 1, 2007, and retroactive for ordinance violations committed on or after July 1, 2006, an ordinance may grant to a municipal court jurisdiction over a violation of such ordinance which is concurrent with the jurisdiction of the district court over a violation of this section, notwithstanding that the elements of such ordinance violation are the same as the elements of a violation of this section that would constitute, and be punished as, a felony.

- (4) Any such ordinance or resolution shall authorize the court to order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.
- (5) Any such ordinance or resolution may require or authorize the court to order that the convicted person's motor vehicle or vehicles be impounded or immobilized *in accordance with subsection (g)*.
- (m)(1) Upon the filing of a complaint, citation or notice to appear alleging a person has violated a city ordinance prohibiting the acts prohibited by this section, and prior to conviction thereof, a city attorney shall request and shall receive from the:
- (A) Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; *and*
- (B) Kansas bureau of investigation central repository all criminal history record information concerning such person.
- (2) If the elements of such ordinance violation are the same as the elements of a violation of this section that would constitute, and be punished as, a felony, the city attorney shall refer the violation to the appropriate county or district attorney for prosecution.
- (n) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section, or a violation of any ordinance of a city or resolution of any county in this state which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this section or by the ordinance. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 et seq. or 22-2906 et seq., and amendments thereto, shall not constitute plea bargaining.
- (o) The alternatives set out in subsections (a)(1), (a)(2) and (a)(3) may be pleaded in the alternative, and the state, city or county, but shall not be required to, may elect one or two of the three prior to submission of the case to the fact finder.
- (p) Upon a *fourth* or subsequent conviction, the judge of any court in which any person is convicted of violating this section, may revoke the person's license plate or temporary registration certificate of the motor vehicle driven during the violation of this section for a period of one year. Upon revoking any license plate or temporary registration certificate pursuant to this subsection, the court shall require that such license plate or temporary registration certificate be surrendered to the court.
- (q) *As used in* this section:
- (1) "Alcohol concentration" means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath;
- (2) "imprisonment" shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city; *and*
- (3) "drug" includes toxic vapors as such term is defined in *K.S.A. 21-5712*, and amendments thereto.
- (r)(1) The amount of the increase in fines as specified in this section shall be remitted by the clerk of the district court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of remittance of the increase provided in this act, the state treasurer shall deposit the entire amount in the state treasury and the state treasurer shall credit 50% to the community alcoholism and intoxication programs fund and 50% to the department of corrections alcohol and drug abuse treatment fund, which is hereby created in the state treasury.
- (2) *On and after July 1, 2011, the amount of \$250 from each fine imposed pursuant to this section shall be remitted by the clerk of the district court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall credit the entire amount to the community corrections supervision fund established by K.S.A. 75-52,113, and amendments thereto.*

8-1567a Driving under the influence of alcohol or drugs by any person less than 21 years of age
(STO §30)

- (a) It shall be unlawful for any person less than 21 years of age to operate or attempt to operate a vehicle in this state with a breath or blood alcohol content of .02 or greater.
- (b) Whenever a law enforcement officer determines that a breath or blood alcohol test is to be required of a person less than 21 years of age pursuant to K.S.A. 8-1001 or K.S.A. 8-2,142 and amendments thereto, in addition to any other notices required by law, the law enforcement officer shall provide written and oral notice that: (1) It is unlawful for any person less than 21 years of age to operate or attempt to operate a vehicle in this state with a breath or blood alcohol content of .02 or greater; and (2) if the person is less than 21 years of age at the time of the test request and submits to and completes the test or tests and the test results show an alcohol concentration of .02 or greater, but less than .08, on the person's first occurrence, the person's driving privileges will be suspended for 30 days and on the person's second or subsequent occurrence, the person's driving privileges shall be suspended for one year.
- (c) Any suspension and restriction of driving privileges pursuant to this section shall be in addition to any disqualification from driving a commercial motor vehicle pursuant to K.S.A. 8-2,142 and amendments thereto.
- (d) Whenever a breath or blood alcohol test is requested pursuant to K.S.A. 8-1001 and amendments thereto, from a person less than 21 years of age, and results in a test result of .02 or greater, but less than .08, a law enforcement officer's certification under this section shall be prepared. The certification required by this section shall be signed by one or more officers to certify that:
- (1)(A) There existed reasonable grounds to believe the person was operating a vehicle while under the influence of alcohol or drugs, or both, or to believe that the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128 and amendments thereto, while having alcohol or other drugs in such person's system;
- (B) the person had been placed under arrest, was in custody or had been involved in a vehicle accident or collision;
- (C) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001 and amendments thereto, and the oral and written notice required by this section;
- (D) that the person was less than 21 years of age at the time of the test request; and
- (E) the result of the test showed that the person had an alcohol concentration of .02 or greater in such person's blood or breath.
- (2) With regard to a breath test, in addition to those matters required to be certified under subsection (d)(1), that: (A) The testing equipment used was certified by the Kansas department of health and environment; (B) the testing procedures used were in accordance with the requirements set out by the Kansas department of health and environment; and (C) the person who operated the testing equipment was certified by the Kansas department of health and environment to operate such equipment.
- (e) If a hearing is requested as a result of a law enforcement officer's certification under this section, the scope of the hearing shall be limited to whether: (1) A law enforcement officer had reasonable grounds to believe the person was operating a vehicle while under the influence of alcohol or drugs, or both, or to believe that the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128 and amendments thereto, while having alcohol or other drugs in such person's system; (2) the person was in custody or arrested for an alcohol or drug related offense or was involved in a motor vehicle accident or collision resulting in property damage, personal injury or death; (3) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001 and amendments thereto, and the oral and written notice required by this section; (4) the testing equipment used was reliable; (5) the person who operated the testing equipment was qualified; (6) the testing procedures used were reliable; (7) the test result determined that the person had an alcohol concentration of .02 or greater in such person's blood or breath; (8) the person was operating a vehicle; and (9) the person was less than 21 years of age at the time a test was requested.

- (f) If a person less than 21 years of age submits to a breath or blood alcohol test requested pursuant to K.S.A. 8-1001 or K.S.A. 8-2,142 and amendments thereto, and produces a test result of .02 or greater, but less than .08, on the person's first occurrence, the person's driving privileges shall be suspended for 30 days and then restricted as provided by K.S.A. 8-1015, and amendments thereto, for an additional 330 days, and on the person's second or subsequent occurrence, the person's driving privileges shall be suspended for one year.
- (g) Except where there is a conflict between this section and K.S.A. 8-1001 and 8-1002 and amendments thereto, the provisions of K.S.A. 8-1001 and 8-1002 and amendments thereto, shall be applicable to proceedings under this section.
- (h) Any determination under this section that a person less than 21 years of age had a test result of .02 or greater, but less than .08, and any resulting administrative action upon the person's driving privileges, upon the first occurrence of such test result and administrative action, shall not be considered by any insurance company in determining the rate charged for any automobile liability insurance policy or whether to cancel any such policy under the provisions of subsection (4)(a) of K.S.A. 40-277 and amendments thereto.

8-1568 Fleeing or attempting to elude a police officer

(STO §31)

- (a)(1) Any driver of a motor vehicle who willfully fails or refuses to bring such driver's vehicle to a stop for a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, shall be guilty as provided by subsection (c)(1), (2) or (3).
- (2) Any driver of a motor vehicle who willfully otherwise flees or attempts to elude a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, shall be guilty as provided by subsection (c)(1), (2) or (3).
- (3) It shall be an affirmative defense to any prosecution under paragraph (1) of this subsection that the driver's conduct in violation of such paragraph was caused by such driver's reasonable belief that the vehicle or bicycle pursuing such driver's vehicle is not a police vehicle or police bicycle.
- (b) Any driver of a motor vehicle who willfully fails or refuses to bring such driver's vehicle to a stop, or who otherwise flees or attempts to elude a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, and who:
- (1) Commits any of the following during a police pursuit:
- (A) Fails to stop for a police road block;
 - (B) drives around tire deflating devices placed by a police officer;
 - (C) engages in reckless driving as defined by K.S.A. 8-1566 and amendments thereto;
 - (D) is involved in any motor vehicle accident or intentionally causes damage to property; or (E) commits five or more moving violations; or
- (2) is attempting to elude capture for the commission of any felony, shall be guilty as provided in subsection (c)(4).
- (c)(1) Violation of subsection (a), upon a first conviction is a class B nonperson misdemeanor.
- (2) Violation of subsection (a), upon a second conviction is a class A nonperson misdemeanor.
- (3) Violation of subsection (a), upon a third or subsequent conviction is a severity level 9, person felony.
- (4) Violation of subsection (b) is a severity level 9, person felony.
- (d) The signal given by the police officer may be by hand, voice, emergency light or siren:
- (1) If the officer giving such signal is within or upon an official police vehicle or police bicycle at the time the signal is given, the vehicle or bicycle shall be appropriately marked showing it to be an official police vehicle or police bicycle; or
- (2) if the officer giving such signal is not utilizing an official police vehicle or police bicycle at the time the signal is given, the officer shall be in uniform, prominently displaying such officer's badge of office at the time the signal is given.
- (e) For the purpose of this section:
- (1) "Conviction" means a final conviction without regard whether sentence was suspended or probation granted after such conviction. Forfeiture of bail, bond or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction.

(2) "Appropriately marked" official police vehicle or police bicycle shall include, but not be limited to, any police vehicle or bicycle equipped with functional emergency lights or siren or both and which the emergency lights or siren or both have been activated for the purpose of signaling a driver to stop a motor vehicle.

(f) The division of vehicles of the department of revenue shall promote public awareness of the provisions of this section when persons apply for or renew such person's driver's license.

Note: STO §31 does not apply to felony level violations.

8-1569 Stopping, standing or parking outside of business or residence district

(STO §83)

(a) Outside a business or residence district no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the roadway when it is practicable to stop, park or so leave such vehicle off the roadway, but in every event an unobstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicle shall be available from a distance of two hundred (200) feet in each direction upon such highway.

(b) This section, K.S.A. 8-1571 and K.S.A. 8-1572 shall not apply to the driver of any vehicle which is disabled in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the vehicle in such position.

8-1570 Authority of officer to remove vehicle

(STO §84)

(a) Whenever any police officer finds a vehicle in violation of any of the provisions of K.S.A. 8-1569, such officer is hereby authorized to move such vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position off the roadway.

(b) Any police officer is hereby authorized to remove or cause to be removed to a place of safety any unattended vehicle illegally left standing upon any highway, bridge, causeway, or in any tunnel, in such position or under such circumstances as to obstruct the normal movement of traffic.

(c) Any police officer is hereby authorized to remove or cause to be removed to the nearest garage or other place of safety any vehicle found upon a highway when:

(1) Report has been made that such vehicle has been stolen or taken without the consent of its owner;

(2) The person or persons in charge of such vehicle are unable to provide for its custody or removal; or

(3) When the person driving or in control of such vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested before a judge of the district court without unnecessary delay.

8-1571 Stopping, standing or parking prohibited in specified places

(STO §85)

(a) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control device, no person shall:

(1) Stop, stand or park a vehicle:

(i) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(ii) On a sidewalk;

(iii) Within an intersection;

(iv) On a crosswalk;

(v) Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;

(vi) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

(vii) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(viii) On any railroad tracks;

(ix) On any controlled-access highway;

(x) In the area between roadways of a divided highway, including crossovers; or

(xi) At any place where official signs prohibit stopping.

- (2) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:
- (i) In front of a public or private driveway;
 - (ii) Within fifteen (15) feet of a fire hydrant;
 - (iii) Within twenty (20) feet of a crosswalk at an intersection;
 - (iv) Within thirty (30) feet upon the approach to any flashing signal, stop sign, yield sign or traffic-control signal located at the side of a roadway;
 - (v) Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance, when properly signposted; or
 - (vi) At any place where official signs prohibit standing.
- (3) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers:
- (i) Within fifty (50) feet of the nearest rail of a railroad crossing; or
 - (ii) At any place where official signs prohibit parking.
- (b) No person shall move a vehicle not lawfully under his or her control into any such prohibited area or away from a curb such a distance as is unlawful.
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8-1572 Additional parking regulations

(STO §86)

- (a) Except as otherwise provided in this section, every vehicle stopped or parked upon a two-way roadway shall be so stopped or parked with the right-hand wheels parallel to and within twelve (12) inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder.
- (b) Except when otherwise provided by local ordinance, every vehicle stopped or parked upon a one-way roadway shall be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within twelve (12) inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder, or with its left-hand wheels within twelve (12) inches of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder.
- (c) Local authorities may permit angle parking on any roadway, except that angle parking shall not be permitted on any federal-aid or state highway, unless the secretary of transportation has determined that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.
- (d) The secretary of transportation with respect to highways under the secretary's jurisdiction may place official traffic-control devices prohibiting, limiting or restricting the stopping, standing or parking of vehicles on any highway where, in the secretary's opinion, such stopping, standing or parking is dangerous to those using the highway or where the stopping, standing, or parking of vehicles would unduly interfere with the free movement of traffic thereon. No person shall stop, stand or park any vehicle in violation of the restrictions indicated by such devices.
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8-1573 Unattended motor vehicle

(STO §107)

- (a) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition, effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway.
- (b) For the purpose of this section, unattended shall not be construed to mean a motor vehicle with an engine that has been activated by a remote starter system, when the motor vehicle is locked and when the ignition keys are not in the motor vehicle.
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8-1574 Limitations on backing

(STO §117)

- (a) The driver of a vehicle shall not back the same unless such movement can be made with safety and without interfering with other traffic.
- (b) The driver of a vehicle shall not back the same upon any shoulder or roadway of any controlled-access highway.

8-1575 Driving upon sidewalk**(STO §116)**

No person shall drive any vehicle upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway.

8-1576 Driving when obstructed**(STO §108)**

(a) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such a number of persons, exceeding three (3), as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(b) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with the driver's control over the driving mechanism of the vehicle.

8-1577 Opening and closing vehicle doors**(STO §123)**

No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

8-1578 Riding in house trailer or mobile home**(STO §124)**

No person or persons shall occupy a house trailer, manufactured home, as defined in subsection (a) of K.S.A. 58-4202, or mobile home, as defined in subsection (b) of K.S.A. 58-4202 while it is being moved upon a public highway.

8-1578a Riding on vehicle prohibited, when**(STO §182.2)**

(a) It shall be unlawful for any person under the age of 14 years to ride on any vehicle or upon any portion thereof not designed or intended for use of passengers when the vehicle is in motion.

(b) It shall be unlawful for the operator of any vehicle to allow any person under the age of 14 years to ride on any vehicle or upon any portion thereof not designed or intended for the use of passengers when the vehicle is in motion.

(c) This section shall not apply to:

(1) An employee under the age of 14 years engaged in the necessary discharge of the employee's duty within truck bodies in space intended for merchandise or cargo; or

(2) when the vehicle is being operated in parades, caravans or exhibitions which are officially authorized or otherwise permitted by law.

(d) The provisions of subsections (a) and (b) shall apply only when a vehicle is being operated within the corporate limits of a city or on the state highway system.

8-1579 Driving in defiles or canyons or on steep grades

The driver of a motor vehicle traveling through defiles or canyons or on highways with steep grades shall hold such motor vehicle under control and as near the right-hand edge of the roadway as reasonably possible and, except when driving entirely to the right of the center of the roadway, shall give audible warning with the horn of such motor vehicle upon approaching any curve where the view is obstructed within a distance of two hundred (200) feet along the highway.

8-1580 Coasting prohibited**(STO §109)**

(a) The driver of any motor vehicle when traveling upon a down grade shall not coast with the gears or transmission of such vehicle in neutral.

(b) The driver of a truck or bus when traveling upon a down grade shall not coast with the clutch disengaged.

8-1581 Following fire apparatus prohibited**(STO §110)**

The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred (500) feet or stop such vehicle within five hundred (500) feet of any fire apparatus stopped in answer to a fire alarm.

8-1582 Driving over fire hose prohibited**(STO §111)**

No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street, private road or driveway to be used at any fire or alarm of fire, without the consent of the fire department official in command.

8-1583 Putting glass, etc., on highway prohibited**(STO §112)**

- (a) No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans or any other substance likely to injure any person, animal or vehicle upon such highway.
 - (b) Any person who drops, or permits to be dropped or thrown, upon any highway any destructive or injurious material shall immediately remove the same or cause it to be removed.
 - (c) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle.
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8-1584 Restrictions on driving into intersection, crosswalk or onto railroad grade crossing**(STO §113)**

No driver shall enter an intersection or a marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk or railroad grade crossing to accommodate the vehicle he or she is operating without obstructing the passage of other vehicles, pedestrians or railroad trains notwithstanding any traffic-control signal indication to proceed.

8-1585 Limitations on operation of snowmobile**(STO §114)**

No person shall operate a snowmobile on any controlled-access highway. No person shall operate a snowmobile on any other highway, except when crossing the highway at a right angle, or when use of the highway by other motor vehicles is impossible because of snow, or when such operation is authorized by the authority having jurisdiction over the highway.

8-1586 Unlawful acts; application of regulations [to bicycles]**(STO §127)**

- (a) Violation of any provision of K.S.A. 8-1587 to 8-1592, inclusive, and amendments thereto, is a traffic infraction.
 - (b) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of K.S.A. 8-1587 to 8-1592, inclusive.
 - (c) The provisions of K.S.A. 8-1587 to 8-1592, inclusive, which are applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.
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8-1587 Traffic laws apply to persons riding bicycles**(STO §128)**

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this act, except as otherwise provided in K.S.A. 8-1586 to 8-1592, inclusive, and except as to those provisions of this act which by their nature can have no application.

8-1588 Riding on bicycles**(STO §129)**

- (a) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.

(b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

8-1589 Bicycle—Clinging to other vehicles prohibited

(STO §130)

No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same, himself or herself to any vehicle upon a roadway.

8-1590 Riding on bicycles or mopeds; riding on roadways and bicycle paths

(STO §131)

(a) Every person operating a bicycle or a moped upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as near to the right side of the roadway as practicable, except under any of the following situations when: (1) Overtaking and passing another bicycle or vehicle proceeding in the same direction; (2) preparing for a left turn at an intersection or into a private road or driveway; or (3) reasonably necessary to avoid conditions including, but not limited to, fixed or moving objects, parked or moving bicycles, bicycles, pedestrians, animals, surface hazards or narrow width lanes that make it unsafe to continue along the right-hand edge of the roadway.

(b) Any person operating a bicycle or a moped upon a one-way highway with two or more marked traffic lanes may ride as near to the left side of the roadway as practicable.

(c) Persons riding bicycles upon a roadway shall not ride more than two abreast, except on paths or parts of roadways set aside for the exclusive use of bicycles.

(d) Wherever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

(e) For purposes of this section, “narrow width lane” means a lane that is too narrow for a bicycle and a vehicle to travel safely side-by-side within the lane.

8-1591 Bicycle—Carrying articles

(STO §132)

No person operating a bicycle shall carry any package, bundle or article which prevents the driver from keeping at least one (1) hand upon the handlebars.

8-1592 Lamps, brakes and other equipment on bicycles

(STO §133)

(a) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred (500) feet to the front and with a red reflector on the rear of a type approved by the secretary of transportation which shall be visible from all distances from one hundred (100) feet to six hundred (600) feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector.

(b) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

(c) No person shall sell a pedal for use on a bicycle, unless such pedal is equipped with a reflector of a type approved by the secretary of transportation which is visible from the front and rear of the bicycle to which it is attached during darkness from a distance of two hundred (200) feet, and no person shall sell a new bicycle, unless it is equipped with pedals meeting the requirements of this subsection.

8-1592a Application of 8-1586 to 8-1592 to motorized bicycles

(STO §134)

The provisions of K.S.A. 8-1586 to 8-1592, inclusive, shall be applicable to motorized bicycles, and every person operating a motorized bicycle shall be subject to the provisions thereof.

8-1592b Application of traffic laws to electric-assisted bicycles**(STO §135)**

Vehicle registration and driver's license shall not be required for operation of an electric-assisted bicycle.

Traffic regulations applicable to bicycles shall apply to electric-assisted bicycles, except tricycles with no brake horsepower.

8-1593 Motorcycle—Rights and duties of persons riding**(STO §137)**

Every person operating a motorcycle shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of any other vehicle under this act, except as provided in K.S.A. 8-1594 to 8-1598, inclusive, of this article [8-1501 through 8-15,111] and except as to those provisions of this act which by their nature can have no application.

8-1594 Motorcycle—Operation of**(STO §138)**

- (a) A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle, unless such motorcycle is designed to carry more than one (1) person, in which event a passenger may ride upon the permanent and regular seat if designed for two (2) persons, or upon another seat firmly attached to the motorcycle at the rear or side of the operator.
 - (b) A person shall ride upon a motorcycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle.
 - (c) No person shall operate a motorcycle while carrying any package, bundle, or other article which prevents such person from keeping both hands on the handlebars.
 - (d) No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the motorcycle or the view of the operator.
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8-1595 Motorcycle—Operation on roadways laned for traffic**(STO §139)**

- (a) All motorcycles are entitled to full use of a lane, and no motor vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of a lane. This subsection shall not apply to motorcycles operated two (2) abreast in a single lane.
 - (b) The operator of a motorcycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.
 - (c) No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.
 - (d) Motorcycles shall not be operated more than two (2) abreast in a single lane.
 - (e) Subsections (b) and (c) shall not apply to police officers in the performance of their official duties.
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8-1596 Motorcycle—Clinging to other vehicles prohibited**(STO §140)**

No person riding upon a motorcycle shall attach himself, herself or the motorcycle to any other vehicle on a roadway.

8-1597 Motorcycle—Equipment for passengers**(STO §141)**

Any motorcycle carrying a passenger, other than in a sidecar or enclosed cab, shall be equipped with a seat and footrests for such passenger.

8-1598 Operation of motorcycles; equipment required for operators and riders**(STO §142)**

- (a) No person under the age of 18 years shall operate or ride upon a motorcycle or a motorized bicycle, unless wearing a helmet which complies with minimum guidelines established by the national highway traffic safety administration pursuant to the national traffic and motor vehicle safety act of 1966 for helmets designed for use by motorcyclists and other motor vehicle users.

- (b) No person shall allow or permit any person under the age of 18 years to: (1) Operate a motorcycle or motorized bicycle or to ride as a passenger upon a motorcycle or motorized bicycle without being in compliance with the provisions of subsection (a); or (2) operate a motorcycle or to ride as a passenger upon a motorcycle without being in compliance with the provisions of subsection (c).
- (c)(1) No person shall operate a motorcycle unless such person is wearing an eye-protective device which shall consist of protective glasses, goggles or transparent face shields which are shatter proof and impact resistant, except when the motorcycle is equipped with a windscreen which has a minimum height of 10 inches measured from the center of the handlebars.
- (2) No person under the age of 18 years shall ride as a passenger on a motorcycle unless such person is wearing an eye-protective device which shall consist of protective glasses, goggles or transparent face shields which are shatter proof and impact resistant.
- (d) This section shall not apply to persons riding within an enclosed cab or on a golf cart, nor shall it apply to any person operating or riding any industrial or cargo-type vehicle having three wheels and commonly known as a truckster.

8-1599 Transportation of liquor in opened containers unlawful
(STO §106)

- (a) As used in this section, “alcoholic beverage” means any alcoholic liquor, as defined by K.S.A. 41-102 and amendments thereto, or any cereal malt beverage, as defined by K.S.A. 41-2701 and amendments thereto.
- (b) No person shall transport in any vehicle upon a highway or street any alcoholic beverage unless such beverage is:
- (1) In the original unopened package or container, the seal of which has not been broken and from which the original cap, cork or other means of closure has not been removed;
- (2)(A) in the locked rear trunk or rear compartment, or any locked outside compartment which is not accessible to any person in the vehicle while it is in motion; or
- (B) if a motor vehicle is not equipped with a trunk, behind the last upright seat or in an area not normally occupied by the driver or a passenger; or
- (3) in the exclusive possession of a passenger in a vehicle which is a recreational vehicle, as defined by K.S.A. 75-1212 and amendments thereto, or a bus, as defined by K.S.A. 8-1406 and amendments thereto, who is not in the driving compartment of such vehicle or who is in a portion of such vehicle from which the driver is not directly accessible.
- (c) Violation of this section is a misdemeanor punishable by a fine of not more than \$200 or by imprisonment for not more than six months, or both.
- (d) Except as provided in subsection (f) upon conviction or adjudication of a second or subsequent violation of this section, the judge, in addition to any other penalty or disposition ordered pursuant to law, shall suspend the person’s driver’s license or privilege to operate a motor vehicle on the streets and highways of this state for one year.
- (e) Upon suspension of a license pursuant to this section, the court shall require the person to surrender the license to the court, which shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the person may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the person’s privilege to operate a motor vehicle is in effect.
- (f) As used in this section, “highway” and “street” have the meanings provided by K.S.A. 8-1424 and 8-1473, and amendments thereto.
- (g) In lieu of suspending the driver’s license or privilege to operate a motor vehicle on the highways of this state of any person convicted of violating this section, as provided in subsection (d), the judge of the court in which such person was convicted may enter an order which places conditions on such person’s privilege of operating a motor vehicle on the highways of this state, a certified copy of which such person shall be required to carry any time such person is operating a motor vehicle on the highways of this state. Any such

order shall prescribe the duration of the conditions imposed, which in no event shall be for a period of more than one year for a second violation.

Upon entering an order restricting a person's license hereunder, the judge shall require such person to surrender such person's driver's license to the judge who shall cause it to be transmitted to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on such person's privilege of operating a motor vehicle and that a certified copy of the order imposing such conditions is required to be carried by the person for whom the license was issued any time such person is operating a motor vehicle on the highways of this state. If the person convicted is a nonresident, the judge shall cause a copy of the order to be transmitted to the division and the division shall forward a copy of it to the motor vehicle administrator, of such person's state of residence. Such judge shall furnish to any person whose driver's license has had conditions imposed on it under this section a copy of the order, which shall be recognized as a valid Kansas driver's license until such time as the division shall issue the restricted license provided for in this section. Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the licensee may apply to the division for the return of the license previously surrendered by such licensee. In the event such license has expired, such person may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless such person's privilege to operate a motor vehicle on the highways of this state has been suspended or revoked prior thereto. If any person shall violate any of the conditions imposed under this subsection, such person's driver's license or privilege to operate a motor vehicle on the highways of this state shall be revoked for a period of not less than 60 days nor more than one year by the judge of the court in which such person is convicted of violating such conditions.

- (h) It shall be an affirmative defense to any prosecution under this section that an occupant of the vehicle other than the defendant was in exclusive possession of the alcoholic liquor.
- (i) The court shall report to the division every conviction of a violation of this section or of a city ordinance or county resolution that prohibits the acts prohibited by this section. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.
- (j) For the purpose of determining whether a conviction is a first, second or subsequent conviction in sentencing under this section:
 - (1) "Conviction" includes being convicted of a violation of an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits;
 - (2) only convictions occurring in the immediately preceding five years, including prior to the effective date of this act, shall be taken into account, but the court may consider other prior convictions in determining the sentence to be imposed within the limits provided for a first, second or subsequent offender, whichever is applicable; and
 - (3) it is irrelevant whether an offense occurred before or after conviction for a previous offense.
- (k) This section shall not be construed as preventing any city from enacting ordinances, or any county from adopting resolutions, declaring acts prohibited by this section as unlawful or prohibited in such city or county and prescribing penalties for violation thereof, but such ordinance or resolution shall provide for suspension or restriction of driving privileges as provided by this section and the convicting court shall be required to report convictions for violations of such ordinance or resolution as provided by subsection (i).
- (l) This section shall be part of and supplemental to the uniform act regulating traffic on highways.

8-15,100 Operation of all-terrain vehicles

(STO §114.1)

- (a) Except as provided in subsection (b), it shall be unlawful for any person to operate an all-terrain vehicle:
 - (1) On any interstate highway, federal highway or state highway; or
 - (2) within the corporate limits of any city unless authorized by such city.
- (b) Notwithstanding the provisions of subsection (a), all-terrain vehicles owned and operated by a county noxious weed department, or all-terrain vehicles owned and operated by persons contracting with a county

noxious weed department or the Kansas department of transportation may be allowed to operate such all-terrain vehicles upon the right-of-way of any federal highway or state highway for the purpose of eradicating noxious weeds and such all-terrain vehicles may be operated incidentally upon such federal highway or state highway.

(c) No all-terrain vehicle shall be operated on any public highway, street or road between sunset and sunrise unless equipped with lights as required by law for motorcycles.

(d) This section shall be part of and supplemental to the uniform act regulating traffic on highways.

8-15,101 Unlawful operation of low-speed vehicle

(STO §114.3)

(a) It shall be unlawful for any person to operate a low-speed vehicle on any street or highway with a posted speed limit greater than 40 miles per hour.

(b) The provisions of subsection (a), shall not prohibit a low-speed vehicle from crossing a street or highway with a posted speed limit in excess of 40 miles per hour.

(c) This section shall be a part of and supplemental to the uniform act regulating traffic on highways.

8-15,102 Littering

(a) No person shall throw, place or drop litter or allow litter to be thrown, placed or dropped from a motor vehicle onto or upon any highway, road or street. The driver of the vehicle may be cited for any litter thrown, placed or dropped from the motor vehicle, unless any other person in the motor vehicle admits to or is identified as having committed the act.

(b) "Litter" means rubbish, refuse, waste material, garbage, trash or debris of whatever kind or description and includes improperly discarded paper, metal, plastic or glass.

(c) This section shall be part of and supplemental to the uniform act regulating traffic on highways.

8-15,103 Failure to obey school crossing guard

(STO §64.1)

(a) No person shall willfully fail or refuse to comply with any lawful order or direction of any uniformed school crossing guard invested by law with authority to direct, control or regulate traffic.

(b) This section shall be part of and supplemental to the uniform act regulating traffic.

8-15,106 Operation of micro utility trucks

(STO §114.2)

(a) It shall be unlawful for any person to operate a micro utility truck:

(1) On any interstate highway, federal highway or state highway; or

(2) on any public highway or street within the corporate limits of any city unless authorized by such city.

(b) No micro utility truck shall be operated on any public highway or street, unless such truck complies with the equipment requirements under article 17 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto.

(c) The provisions of subsection (a), shall not prohibit a micro utility truck from crossing a federal or state highway.

(d) This section shall be part of and supplemental to the uniform act regulating traffic on highways.

8-15,107 Removal of vehicles obstructing traffic

(STO §26.1)

(a) Except in the case of an accident involving death or apparent injury of any person, or the transportation of hazardous material, the owner or driver of a vehicle which obstructs the regular flow of traffic on any interstate highway, U.S. highway, or any multilane or divided roadway, shall make every reasonable effort to move the vehicle from the roadway, if, moving the vehicle may be done safely, does not require towing and may be operated under its own power without further damage to the vehicle or the roadway and without endangering other vehicles or persons upon the roadway.

(b) Except in the case of an accident involving death or apparent injury of any person or the transportation of hazardous material, authorized employees or agents of the Kansas department of transportation, Kansas highway patrol or other law enforcement agency without the consent of the driver or owner of the vehicle

or property, may require, assist in or cause the removal from the roadway any vehicle, debris or any other property which is obstructing the regular flow of traffic, creating or aggravating an emergency situation or otherwise endangering public safety.

- (c) No state, county or municipal agency nor their authorized employees or agents shall be held liable for any damages resulting from the reasonable exercise of authority granted under this section.
 - (d) Notwithstanding the provisions of this section, a driver is required to comply with the applicable provisions of K.S.A. 8-1601 et seq., and amendments thereto.
 - (e) From and after July 1, 2009, and prior to July 1, 2010, a law enforcement officer shall issue a warning citation to anyone violating subsection (a).
 - (f) This section shall be part of and supplemental to the uniform act regulating traffic on highways.
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8-15,108 Operation of golf cart

(STO §114.4)

- (a) It shall be unlawful for any person to operate a golf cart: (1) On any interstate highway, federal highway or state highway; (2) on any public highway or street within the corporate limits of any city unless authorized by such city; or (3) on any street or highway with a posted speed limit greater than 30 miles per hour.
 - (b) The provisions of subsection (a) shall not prohibit a golf cart from crossing a federal or state highway or a street or highway with a posted speed limit in excess of 30 miles per hour.
 - (c) A golf cart shall be operated on any public street or highway only during the hours between sunrise and sunset.
 - (d) This section shall be part of and supplemental to the uniform act regulating traffic on highways.
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8-15,109 Operation of work-site utility vehicle

(STO §114.5)

- (a) It shall be unlawful for any person to operate a worksite utility vehicle: (1) On any interstate highway, federal highway or state highway; or (2) within the corporate limits of any city unless authorized by such city.
 - (b) No work-site utility vehicle shall be operated on any public highway, street or road between sunset and sunrise unless equipped with lights as required by law for motorcycles.
 - (c) This section shall be part of and supplemental to the uniform act regulating traffic on highways.
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8-15,110 License plates; unlawful display; material affecting visibility or reflectivity

(STO 126.1)

- (a) It shall be unlawful for any person to attach and display on any vehicle a license plate, as required under article 1 of chapter 8 of the Kansas Statutes Annotated, which is covered, in whole or in part, with any clear or opaque material or any other plastic-like material that affects the plate's visibility or reflectivity.
 - (b) This section shall be part of and supplemental to the uniform act regulating traffic on highways.
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8-15,111 Unlawful acts; written communications by wireless communication devices while operating a vehicle

(STO 126.2)

- (a) As used in this section:
 - (1) "Wireless communication device" means any wireless electronic communication device that provides for voice or data communication between two or more parties, including, but not limited to, a mobile or cellular telephone, a text messaging device, a personal digital assistant that sends or receives messages, an audio-video player that sends or receives messages or a laptop computer. "Wireless communication device" does not include a device which is voice-operated and which allows the user to send or receive a text based communication without the use of either hand, except to activate or deactivate a feature or function.
 - (2) "Write, send or read a written communication" means using a wireless communication device to manually type, send or read a written communication, including, but not limited to, a text message, instant message or electronic mail.
- (b) Except as provided in subsections (c) and (d), no person shall operate a motor vehicle on a public road or highway while using a wireless communications device to write, send or read a written communication.

- (c) The provisions of subsection (b) shall not apply to:
- (1) A law enforcement officer or emergency service personnel acting within the course and scope of the law enforcement officer's or emergency service personnel's employment;
 - (2) a motor vehicle stopped off the regular traveled portion of the roadway;
 - (3) a person who reads, selects or enters a telephone number or name in a wireless communications device for the purpose of making or receiving a phone call;
 - (4) a person who receives an emergency, traffic or weather alert message; or
 - (5) a person receiving a message related to the operation or navigation of the motor vehicle.
- (d) The provisions of subsection (b) shall not prohibit a person from using a wireless communications device while operating a moving motor vehicle to:
- (1) Report current or ongoing illegal activity to law enforcement;
 - (2) prevent imminent injury to a person or property; or
 - (3) relay information between transit or for-hire operator and the operator's dispatcher, in which the device is permanently affixed to the motor vehicle.
- (e) From and after the effective date of this act and prior to January 1, 2011, a law enforcement officer shall issue a warning citation to anyone violating subsection (b).
- (f) This section shall be part of and supplemental to the uniform act regulating traffic on highways.

Chapter 8
Article 16 thru 25

8-1602 Accident involving death or personal injury
(STO §23)

Amended 2011

- (a) The driver of any vehicle involved in an accident resulting in injury to, great bodily harm to or death of any person *or damage to any attended vehicle or property* shall immediately stop such vehicle at the scene of such accident, or as close thereto as possible, but shall then *immediately* return to and in every event shall remain at the scene of the accident until the driver has fulfilled the requirements of K.S.A. 8-1604, and amendments thereto.
- (b) A person who violates *subsection (a) when an accident* results in:
- (1) *Total property damages of less than \$1,000 shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided in K.S.A. 8-2116, and amendments thereto.*
 - (2) Injury to any person *or total property damages in excess of \$1,000 or more* shall be guilty of a class A person misdemeanor.
 - (3) Great bodily harm to any person shall be guilty of a *severity level 8*, person felony.
 - (4) The death of any person shall be guilty of a *severity level 6*, person felony, *except as provided in subsection (a)(5).*
 - (5) *The death of any person, if the person knew or reasonably should have known that such accident resulted in injury or death, shall be a level 5, person felony.*
- (c) The director may revoke the license or permit to drive or any nonresident operating privilege of any person so convicted.
- (d) *The driver shall comply with the provisions of K.S.A. 8-15,107, and amendments thereto.*
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8-1603 Accident involving damage to vehicle or property
(STO §24)

Repealed 2011

8-1604 Duty of driver to give certain information after accident
(STO §25)

Amended 2011

- (a)(1) The driver of any vehicle involved in an accident resulting in injury to or death of any person, or damage to any *attended* vehicle or property, shall give such *driver's* name, address and the registration number of the vehicle such *driver* is driving, and upon request shall exhibit such *driver's* license or permit to drive, the name of the company with which there is in effect a policy of motor vehicle liability insurance covering the vehicle involved in the accident and the policy number of such policy to any person injured in such accident or to the driver or occupant of or person attending any vehicle or other property damaged in such accident, and shall give such information and upon request exhibit such license or permit and the name of the insurer and policy number to any police officer at the scene of the accident or who is investigating the accident.
- (2) *Such driver, insofar as possible, shall immediately make efforts to determine whether any person involved in such accident was injured or killed, and shall render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying of such person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary, or if such carrying is requested by the injured person.*
- (b) *If no police officer is present, the driver of any vehicle involved in such accident, or any occupant of such vehicle 18 years of age or older, shall immediately report such accident, by the quickest available means of communication, to the nearest office of a duly authorized police authority if:*
- (1) *There is apparently property damage of \$1000 or more;*
 - (2) *any person involved in the accident is injured or killed; or*
 - (3) *the persons specified in subsection (a) are not present or in condition to receive such information.*

(c) Unless the insurance company subsequently submits an insurance verification form indicating that insurance was not in force, no person charged with failing to provide the name of such person's insurance company and policy number as required in subsection (a), shall be convicted if such person produces in court, within 10 days of the date of arrest or of issuance of the citation, evidence of financial security for the motor vehicle operated, which was valid at the time of arrest or of issuance of the citation. For the purpose of this subsection, evidence of financial security shall be provided by a policy of motor vehicle liability insurance, an identification card or certificate of insurance issued to the policyholder by the insurer which provides the name of the insurer, the policy number, make and year of the vehicle and the effective and expiration dates of the policy, or a certificate of self-insurance signed by the commissioner of insurance. Upon the production in court of evidence of financial security, the court shall record the information displayed thereon on the insurance verification form prescribed by the secretary of revenue, immediately forward such form to the department of revenue, and stay any further proceedings on the matter pending a request from the prosecuting attorney that the matter be set for trial. Upon receipt of such form the department shall mail the form to the named insurance company for verification that insurance was in force on the date indicated on the form. It shall be the duty of insurance companies to notify the department within 30 calendar days of the receipt of such forms of any insurance that was not in force on the date specified. Upon return of any form to the department indicating that insurance was not in force on such date, the department shall immediately forward a copy of such form to the office of the prosecuting attorney or the city clerk of the municipality in which such prosecution is pending when the prosecuting attorney is not ascertainable. Receipt of any completed form indicating that insurance was not in effect on the date specified shall be prima facie evidence of failure to provide proof of financial security and violation of this section. A request that the matter be set for trial shall be made immediately following the receipt by the prosecuting attorney of a copy of the form from the department of revenue indicating that insurance was not in force. Any charge hereunder shall be dismissed if no request for a trial setting has been made within 60 days of the date evidence of financial security was produced in court.

8-1605 Duty of driver upon damaging unattended vehicle or other property

(STO §26)

Amended 2011

- (a) The driver of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended, resulting in any damage to such other vehicle or property, shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle or other property of such *driver's* name, address and the registration number of the vehicle such *driver* was driving, or shall attach securely in a conspicuous place in or on such vehicle or other property a written notice giving such *driver's* name, address and the registration number of the vehicle such *driver* was driving, and without unnecessary delay shall notify the nearest office of a duly authorized police authority. Violation of this *subsection* is a misdemeanor *and, upon conviction shall be punished as provided in K.S.A. 8-2116, and amendments thereto.*
- (b) The driver under subsection (a), if possible, shall comply with the provisions of K.S.A. 8-15,107, and amendments thereto.

8-1606 Duty of driver or occupant to give notice of accident to police authority

(STO §27)

Repealed 2011

8-1608 False information or report concerning accident

(STO §28)

A person shall not give information in oral or written reports, as required in this article [8-1601 through 8-1613], knowing or having reason to believe that such information is false. Violation of this section is a misdemeanor.

8-1701 Operation of improperly equipped vehicle

(STO §143)

- (a) It is unlawful for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this article [8-1701 through 8-1761], or which is equipped in any manner in violation of any provision of any section of this article 17, or for any person to do any act forbidden or fail to perform any act required by any provision of any section of this article 17. Except as otherwise provided in K.S.A. 8-1742a, 8-1743, 8-1746 and 8-1750 to 8-1760, inclusive, and amendments thereto, any violation of this subsection (a) or of any other provision of this article 17 is a traffic infraction.
- (b) Nothing contained in this article 17 shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this article.
- (c) The provisions of this article 17 with respect to equipment required on vehicles shall not apply to implements of husbandry, road machinery, road rollers or farm tractors except as specifically made applicable in this act.
- (d) The provisions of this article 17 with respect to equipment required on vehicles shall not apply to motorcycles or motor-driven cycles, except as specifically made applicable by law.
- (e) A low-speed vehicle which is in compliance with the equipment requirements in 49 C.F.R. 571.500 shall be deemed to be in compliance with the provisions of this article 17.

8-1703 When lighted lamps required

(STO §144)

- (a) Every vehicle, except as provided in subsection (b), upon a highway within this state, at all times shall display lighted head and other lamps and illuminating devices as required for different classes of vehicles, subject to exceptions with respect to parked vehicles:
- (1) From sunset to sunrise;
 - (2) when due to insufficient light or unfavorable atmospheric conditions, including smoke or fog, persons and vehicles on the highway are not clearly discernible at a distance of 1,000 feet ahead; or
 - (3) when windshield wipers are in continuous use as a result of rain, sleet or snow.
- Stop lights, turn signals and other signaling devices shall be lighted as prescribed for the use of such devices.
- (b) Motorcycles, motor-driven cycles and motorized bicycles manufactured after January 1, 1978, shall display lighted head and tail lights at all times that such vehicles are operated on any highway.
- (c) Law enforcement officers shall issue a warning citation to anyone violating subsection (a)(3).

8-1704 Visibility distance and mounted height of lamps

(STO §145)

- (a) Whenever any requirement is declared in this article [8-1701 through 8-1761] as to distance from which certain lamps and devices shall render objects visible or within which such lamps or devices shall be visible, said provisions shall apply during the times stated in K.S.A. 8-1703 in respect to a vehicle without load when upon a straight, level, unlighted highway under normal atmospheric conditions, unless a different time or condition is expressly stated.
- (b) Whenever any requirement is declared in this article as to the mounted height of lamps or devices it shall mean from the center of such lamp or device to the level ground upon which the vehicle stands when such vehicle is without a load.

8-1705 Head lamps on motor vehicles

(STO §146)

- (a) Every motor vehicle shall be equipped with at least two (2) head lamps with at least one (1) on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in this article [8-1701 through 8-1761].
- (b) Every head lamp upon every motor vehicle manufactured or assembled after July 1, 1959, shall be located at a height of not more than fifty-four (54) inches nor less than twenty-four (24) inches to be measured as set forth in subsection (b) of K.S.A. 8-1704.

8-1706 Tail lamps**(STO §147)**

- (a) Every motor vehicle, trailer, semitrailer and pole trailer, and any other vehicle which is being drawn at the end of a combination of vehicles, shall be equipped with at least two (2) tail lamps mounted on the rear, which, when lighted as required in K.S.A. 8-1703, shall emit a red light plainly visible from a distance of one thousand (1,000) feet to the rear, except that passenger cars manufactured or assembled prior to July 1, 1959, shall have at least one (1) tail lamp. On a combination of vehicles, only the tail lamps on the rearmost vehicle need actually be seen from the distance specified. On vehicles equipped with more than one (1) tail lamp, the lamps shall be mounted on the same level and as widely spaced laterally as practicable.
- (b) Every tail lamp upon every vehicle shall be located at a height of not more than seventy-two (72) inches nor less than fifteen (15) inches.
- (c) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty (50) feet to the rear. Any tail lamp or tail lamps, together with any separate lamp or lamps for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted.
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8-1707 Reflectors**(STO §148)**

- (a) Every motor vehicle, trailer, semitrailer and pole trailer shall carry on the rear, either as a part of the tail lamps or separately, two (2) or more red reflectors meeting the requirements of this section: Provided, That vehicles of the types mentioned in K.S.A. 8-1710 shall be equipped with reflectors meeting the requirements of subsection (a) of K.S.A. 8-1712 and subsection (a) of K.S.A. 8-1713.
- (b) Every such reflector shall be mounted on the vehicle at a height not less than fifteen (15) inches nor more than sixty (60) inches measured as set forth in subsection (b) of K.S.A. 8-1704, and shall be of such size and characteristics and so mounted as to be visible at night from all distances within six hundred (600) feet to one hundred (100) feet from such vehicle when directly in front of lawful lower beams of head lamps, except that reflectors on vehicles manufactured or assembled prior to January 1, 1970, shall be visible at night from all distances within three hundred fifty (350) feet to one hundred (100) feet when directly in front of lawful upper beams of head lamps.
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8-1708 Stop lamps and turn signals**(STO §149)**

- (a) Every motor vehicle, trailer, semitrailer and pole trailer shall be equipped with two (2) or more stop lamps meeting the requirements of subsection (a) of K.S.A. 8-1721, except that passenger cars manufactured or assembled prior to January 1, 1953, shall be equipped with at least one stop lamp. On a combination of vehicles, only the stop lamps on the rearmost vehicle need actually be seen from the distance specified in subsection (a) of K.S.A. 8-1721.
- (b) Every motor vehicle, trailer, semitrailer and pole trailer shall be equipped with electric turn signal lamps meeting the requirements of subsection (b) of K.S.A. 8-1721, except that passenger cars and trucks less than eighty (80) inches in width, manufactured or assembled prior to January 1, 1953, and vehicles registered under K.S.A. 8-194 need not be equipped with electric turn signal lamps.
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8-1709 Application of 8-1710 to 8-1714 [Lighting equipment requirements]**(STO §150)**

K.S.A. 8-1710, 8-1711, 8-1712, 8-1713 and 8-1714, relating to clearance lamps, marker lamps and reflectors, shall apply as stated in said sections to vehicles of the type therein enumerated, namely buses, trucks, truck-tractors, motor homes, motor vehicles with mounted truck-campers, and trailers, semitrailers and pole trailers, respectively, when operated upon any highway, and said vehicle shall be equipped as required and all lamp equipment required shall be lighted at the times mentioned in K.S.A. 8-1703. For purposes of the sections enumerated above, a truck-camper, when mounted upon a motor vehicle, shall be considered part of the permanent structure of that motor vehicle.

8-1710 Additional lighting equipment required on certain vehicles

(STO §151)

In addition to other equipment required in this article [8-1701 through 8-1761], the following vehicles shall be equipped as herein stated.

- (a) Buses, trucks, motor homes and motor vehicles with mounted truck-camper, 80 inches or more in overall width:
 - (1) On the front, two clearance lamps, one at each side, and on vehicles manufactured or assembled after July 1, 1959, three identification lamps meeting the specifications of subsection (g);
 - (2) on the rear, two clearance lamps, one at each side, and on vehicles manufactured or assembled after July 1, 1959, three identification lamps meeting the specifications of subsection (g);
 - (3) on each side, two side marker lamps, one at or near the front and one at or near the rear;
 - (4) on each side, two reflectors, one at or near the front and one at or near the rear.
- (b) Trailers and semitrailers 80 inches or more in overall width, except boat trailers and house trailers for which special permits are required pursuant to K.S.A. 8-1911, and amendments thereto, for movement of such house trailers upon the highways of this state:
 - (1) On the front, two clearance lamps, one at each side;
 - (2) on the rear, two clearance lamps, one at each side, and on vehicles manufactured or assembled after July 1, 1959, three identification lamps meeting the specifications of subsection (g);
 - (3) on each side, two side marker lamps, one at or near the front and one at or near the rear.
- (c) Trailers and semitrailers, except boat trailers and house trailers for which special permits are required pursuant to K.S.A. 8-1911, and amendments thereto, for movement of such house trailers upon the highways of this state:

On each side, two reflectors, one at or near the front and one at or near the rear.
- (d) Truck-tractors:

On the front, two cab clearance lamps, one at each side, and on vehicles manufactured or assembled after July 1, 1959, three identification lamps meeting the specifications of subsection (g).
- (e) Trailers, semitrailers and pole trailers 30 feet or more in overall length:

On each side, one amber side marker lamp and one amber reflector, centrally located with respect to the length of the vehicle.
- (f) Pole trailers:
 - (1) On each side, one amber marker lamp at or near the front of the load;
 - (2) one amber reflector at or near the front of the load;
 - (3) on the rearmost support for the load, one combination marker lamp showing amber to the front and red to the rear and side, mounted to indicate maximum width of the pole trailer.
- (g) Whenever required or permitted by this article, identification lamps shall be grouped in a horizontal row, with lamp centers spaced not less than six nor more than 12 inches apart, and mounted on the permanent structure of the vehicle as close as practicable to the vertical centerline, except that where the cab of a vehicle is not more than 42 inches wide at the front roof line, a single identification lamp at the center of the cab shall be deemed to comply with the requirements for front identification lamps.
- (h) Boat trailers 80 inches or more in overall width:
 - (1) On each side, at or near the midpoint, one clearance lamp performing the function of both a front and rear clearance lamp;
 - (2) on each side, two side marker lamps, one at or near the front and one at or near the rear;
 - (3) on each side, two reflectors, one at or near the front and one at or near the rear.

8-1711 Color of clearance lamps, identification lamps, side marker lamps and reflectors

(STO §152)

- (a) Front clearance lamps, identification lamps and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle shall display or reflect an amber color.
- (b) Rear clearance lamps, identification lamps and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle shall display or reflect a red color.

8-1712 Mounting of reflectors, clearance lamps and side marker lamps**(STO §153)**

(a) Reflectors when required by K.S.A. 8-1710 shall be mounted at a height not less than twenty-four (24) inches and not more than sixty (60) inches above the ground on which the vehicle stands, except that if the highest part of the permanent structure of the vehicle is less than twenty-four (24) inches the reflector at such point shall be mounted as high as that part of the permanent structure will permit.

The rear reflectors on a pole trailer may be mounted on each side of the bolster or load.

Any required red reflector on the rear of a vehicle may be incorporated with the tail lamp, but such reflector shall meet all the other reflector requirements of this article [8-1701 through 8-1761].

(b) Clearance lamps, so far as is practicable, shall be mounted on the permanent structure of the vehicle in such a manner as to indicate the extreme height and width of the vehicle, except that when rear identification lamps are required and are mounted as high as is practicable, rear clearance lamps may be mounted at optional height and when the mounting of front clearance lamps results in such lamps failing to indicate the extreme width of the trailer, such lamps may be mounted at optional height but must indicate, as near as practicable, the extreme width of the trailer. Clearance lamps on truck-tractors shall be located so as to indicate the extreme width of the truck-tractor cab. Clearance lamps and side marker lamps may be mounted in combination if illumination is given as required herein with reference to both.

8-1713 Visibility requirements for reflectors, clearance lamps, identification lamps and side marker lamps**(STO §154)**

(a) Every reflector upon any vehicle referred to in K.S.A. 8-1710 shall be of such size and characteristics and so maintained as to be readily visible at nighttime from all distances within six hundred (600) feet to one hundred (100) feet from the vehicle when directly in front of lawful lower beams of head lamps, except that the visibility for reflectors on vehicles manufactured or assembled prior to January 1, 1970, shall be measured in front of lawful upper beams of head lamps. Reflectors required to be mounted on the sides of the vehicle shall reflect the required color of light to the sides, and those mounted on the rear shall reflect a red color to the rear.

(b) Front and rear clearance lamps and identification lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at all distances between five hundred (500) and fifty (50) feet from the front and rear, respectively, of the vehicle.

(c) Side marker lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at all distances between five hundred (500) and fifty (50) feet from the side of the vehicle on which mounted.

8-1714 Operation of obstructed lamps not required on combination of vehicles**(STO §155)**

Whenever motor and other vehicles are operated in combination during the time that lights are required, any lamp, except tail lamps, which, by reason of its location on a vehicle of the combination, would be obscured by another vehicle of the combination, need not be lighted, but this shall not affect the requirement that lighted clearance lamps be displayed on the front of the foremost vehicle required to have clearance lamps, nor that all lights required on the rear of the rearmost vehicle of any combination shall be lighted.

8-1715 Lamps or flags required on projecting loads**(STO §156)**

Whenever the load upon any vehicle extends to the rear four (4) feet or more beyond the bed or body of such vehicle, there shall be displayed at the extreme rear end of the load, at the times specified in K.S.A. 8-1703, two (2) red lamps visible from a distance of at least five hundred (500) feet to the rear, two (2) red reflectors visible at night from all distances within six hundred (600) feet to one hundred (100) feet to the rear when directly in front of lawful lower beams of head lamps and located so as to indicate maximum width, and on each side one (1) red lamp visible from a distance of at least five hundred (500) feet to the side and located so as to indicate maximum overhang. There shall be displayed at all other times on any vehicle having a load which extends beyond its sides or more than four (4) feet beyond its rear, red flags, not less than twelve (12)

inches square, marking the extremities of such load, at each point where a lamp would otherwise be required by this section.

8-1716 Parked vehicles; lamps required
(STO §157)

- (a) Every vehicle shall be equipped with one (1) or more lamps which, when lighted, shall display a white or amber light visible from a distance of one thousand (1,000) feet to the front of the vehicle, and a red light visible from a distance of one thousand (1,000) feet to the rear of the vehicle. The location of said lamp or lamps always shall be such that at least one (1) lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic.
- (b) Whenever a vehicle is lawfully parked upon a street or highway during the hours between a half hour after sunset and a half hour before sunrise, and in the event there is sufficient light to reveal persons and vehicles within a distance of one thousand (1,000) feet upon such street or highway, no lights need be displayed upon such parked vehicle.
- (c) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between a half hour after sunset and a half hour before sunrise and there is insufficient light to reveal any person or object within a distance of one thousand (1,000) feet upon such highway, such vehicle so parked or stopped shall be equipped with and shall display lamps meeting the requirements of subsection (a).
- (d) Any lighted head lamps upon a parked vehicle shall be depressed or dimmed.

8-1717 Lights, lamps and reflectors on farm tractors and slow-moving vehicles

- (a) Every farm tractor manufactured or assembled after January 1, 1975, shall be equipped with vehicular hazard warning lights of a type described in K.S.A. 8-1722, and amendments thereto, visible from a distance of not less than 1,000 feet to the front and rear in normal sunlight, which shall be displayed whenever any such vehicle is operated upon a highway.
- (b) Every farm tractor manufactured or assembled after January 1, 1975, shall at all times, and every other such motor vehicle shall at all times mentioned in K.S.A. 8-1703, and amendments thereto, be equipped with lamps and reflectors as follows:
 - (1) At least two head lamps meeting the requirements of K.S.A. 8-1724, 8-1726 or 8-1727, and amendments thereto.
 - (2) At least one red lamp visible when lighted from a distance of not less than 1,000 feet to the rear mounted as far to the left of the center of the vehicle as practicable.
 - (3) At least two red reflectors visible from all distances within 600 feet to 100 feet to the rear when directly in front of lawful lower beams of head lamps.
- (c) On every combination of farm tractor and towed farm equipment or towed implement of husbandry, the farm tractor shall be equipped as required in subsections (a) and (b), and the towed unit shall be equipped at all times mentioned in K.S.A. 8-1703, and amendments thereto, with lamps and reflectors as follows:
 - (1) If the towed unit or its load extends more than four feet to the rear of the tractor or obscures any light thereon, the unit shall be equipped on the rear with at least one red lamp visible when lighted from a distance of not less than 1,000 feet to the rear, mounted as far to the left of the center of the towed unit as practicable, and at least two red reflectors visible from all distances within 600 feet to 100 feet to the rear when directly in front of lawful lower beams of head lamps.
 - (2) If the towed unit of such combination extends more than four feet to the left of the center line of the tractor, the unit shall be equipped on the front with an amber reflector visible from all distances within 600 feet to 100 feet to the front when directly in front of lawful lower beams of head lamps. This reflector shall be so positioned to indicate, as nearly as practicable, the extreme left projection of the towed unit.
 - (3) If the towed unit or its load obscures either of the vehicle hazard warning lights on the tractor, the towed unit shall be equipped with vehicle hazard warning lights described in subsection (a).
- (d) The two red reflectors required in the preceding subsections shall be so positioned as to show from the rear, as nearly as practicable, the extreme width of the vehicle or combination carrying them. If all other requirements are met, reflective tape or paint may be used in lieu of the reflectors required by subsection (c).

(e) As used in this section:

(1) "Slow-moving vehicle" means any vehicle, farm tractor, implement of husbandry, equipment or piece of machinery designed for use at speeds of less than 25 miles per hour, or which is normally moved at speeds of less than 25 miles per hour, and includes all road construction or maintenance machinery, except when such machinery is engaged in actual construction or maintenance work and there is either a flagman or clearly visible warning signs to warn of such machinery's presence on the roadway.

(2) "Slow-moving vehicle emblem" means a triangular-shaped emblem of substantial construction having equal sides of 14 inches and an altitude of 12 inches, and such emblem shall be painted a fluorescent yellow-orange color and bordered with reflective red-colored strips having a minimum width of 1 3/4 inches, with the vertices of the overall triangle truncated in such a manner that the remaining altitude shall be at least 14 inches.

(f) The secretary of transportation shall approve slow-moving vehicle emblems which meet the requirements of this act, and shall compile and publish a list of approved emblems and the manufacturers thereof.

(g) A slow-moving vehicle emblem shall be mounted or affixed on the rear of the slow-moving vehicle in compliance with standard S276.2 of the American society of agricultural engineers, as such standard was revised in March, 1968.

(h) No person shall operate any slow-moving vehicle on any highway which is within the national system of interstate and defense highways, the state highway system or the state system of modern express highways and freeways, unless such vehicle is equipped with a properly mounted slow-moving vehicle emblem, which has been approved by the secretary of transportation, and which is maintained in a clean, fluorescent and reflective condition, or display a slow-moving vehicle emblem on any vehicle other than a slow-moving vehicle or display such emblem on a slow-moving vehicle which is being operated at a speed of 25 miles per hour or more, or to use such emblem in any manner other than authorized by this section.

(i) Notwithstanding the provisions of this section, a low-speed vehicle shall not be required to display a slow-moving vehicle emblem.

8-1718 Lamps and equipment required on implements of husbandry, road rollers, road machinery and animal-drawn vehicles
(STO §158)

(a) Every vehicle, including animal-drawn vehicles and vehicles referred to in subsection (c) of K.S.A. 8-1701, not specifically required by the provisions of other sections in this article [8-1701 through 8-1761] to be equipped with lamps or other lighting devices, shall be equipped, at all times specified in K.S.A. 8-1703, with at least one (1) lamp displaying a white light visible from a distance of not less than one thousand (1,000) feet to the front of said vehicle, and also shall be equipped with two (2) lamps displaying red light visible from a distance of not less than one thousand (1,000) feet to the rear of said vehicle, or as an alternative, one (1) lamp displaying a red light visible from a distance of not less than one thousand (1,000) feet to the rear and two (2) red reflectors visible from all distances of six hundred (600) to one hundred (100) feet to the rear when illuminated by the lawful lower beams of head lamps.

(b) Every animal-drawn vehicle shall be equipped at all times with a slow-moving vehicle emblem complying with subsection (g) of K.S.A. 8-1717.

8-1719 Spot lamps, fog lamps, auxiliary passing lamps and auxiliary driving lamps
(STO §159)

(a) Spot lamps. Any motor vehicle may be equipped with not to exceed two (2) spot lamps. Every lighted spot lamp emitting a white light shall be so aimed and used that no part of the high intensity portion of the beam will strike the windshield, or any windows, mirror or occupant of another vehicle in motion. The limitations of this subsection shall not apply to a police vehicle used as an authorized emergency vehicle.

(b) Fog lamps. Any motor vehicle may be equipped with not to exceed two (2) fog lamps mounted on the front at a height not less than twelve (12) inches nor more than thirty (30) inches above the level surface upon which the vehicle stands and so aimed that when the vehicle is not loaded none of the high intensity portion of the light to the left of the center of the vehicle shall project, at a distance of twenty-five (25) feet ahead, higher than a level of four (4) inches below the level of the center of the lamp from which it comes.

Lighted fog lamps meeting the above requirements may be used with lower head lamp beams as specified in subsection (a)(2) of K.S.A. 8-1724.

(c) Auxiliary passing lamps. Any motor vehicle may be equipped with not to exceed two (2) auxiliary passing lamps mounted on the front at a height not less than twenty-four (24) inches nor more than forty-two (42) inches above the level surface upon which the vehicle stands. The provisions of K.S.A. 8-1724 shall apply to any combination of head lamps and auxiliary passing lamps.

(d) Auxiliary driving lamps. Any motor vehicle may be equipped with not to exceed two (2) auxiliary driving lamps mounted on the front at a height not less than sixteen (16) inches nor more than forty-two (42) inches above the level surface upon which the vehicle stands. The provisions of K.S.A. 8-1724 shall apply to any combination of head lamps and auxiliary driving lamps.

8-1721 Stop lamps and signal lamps

(STO §161)

(a) Any vehicle may be equipped and when required under this act shall be equipped with a stop lamp or lamps on the rear of the vehicle which shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than three hundred (300) feet to the rear in normal sunlight, and which shall be actuated upon application of the service or foot brake, and which may, but need not, be incorporated with one (1) or more other rear lamps.

(b) Any vehicle may be equipped and when required under this act shall be equipped with electric turn signals which shall indicate an intention to turn by flashing lights showing to the front and rear of a vehicle, or on a combination of vehicles on the side of the vehicle or combination toward which the turn is to be made. The lamps showing to the front shall be mounted on the same level and as widely spaced laterally as practicable and, when signaling, shall emit amber light: Provided, That on any vehicle manufactured prior to July 1, 1973, the lamps showing to the front may emit white or amber light, or any shade of light between white and amber. The lamps showing to the rear shall be mounted on the same level and as widely spaced laterally as practicable, and, when signaling, shall emit a red or amber light, or any shade of color between red and amber. Turn signal lamps shall be visible from a distance of not less than five hundred (500) feet to the front and rear in normal sunlight. Turn signal lamps may, but need not be, incorporated in other lamps on the vehicle.

(c) Every new motor vehicle sold within this state shall be equipped with turn signals meeting the requirements of subsection (b).

8-1722 Vehicular hazard warning lamps

(STO §162)

(a) Any vehicle may be equipped with lamps for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing.

(b) Every bus, truck, truck tractor, trailer, semitrailer or pole trailer 80 inches or more in overall width or 30 feet or more in overall length shall be equipped with lamps meeting the requirements of this section.

(c) Vehicular hazard warning signal lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable, and shall display simultaneously flashing amber lights. On any vehicle manufactured prior to January 1, 1969, the lamps showing to the front may display simultaneously flashing white or amber lights, or any shade of color between white and amber. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red. Such warning lights shall be visible from a distance of not less than 500 feet in normal sunlight.

(d) Any police vehicle, when used as an authorized emergency vehicle, may be equipped with warning lamps mounted as widely spaced laterally as practicable, either inside such vehicle in front of the rear window or on the roof of such vehicle, and capable of displaying two alternately flashing amber lights to the rear of such vehicle. Such warning lamps may be used in lieu of or in combination with any other vehicular hazard warning signal lamps used to display such warning to the rear, and shall be visible from a distance of not less than 500 feet in normal sunlight.

(e) Every truck designed and used for collection and disposal of domestic or commercial waste or trash shall be equipped as provided in subsection (c) and shall operate such lamps when collecting or transporting waste or trash and traveling 15 miles per hour or less.

8-1723 Additional lighting equipment permitted; neon ground effect lighting; lead vehicle of funeral procession
(STO §163)

- (a) Any motor vehicle may be equipped with not more than two side cowl or fender lamps which shall emit an amber or white light without glare.
- (b) Any motor vehicle may be equipped with not more than one running-board courtesy lamp on each side which shall emit a white or amber light without glare.
- (c) Any motor vehicle may be equipped with one or more back-up lamps either separately or in combination with other lamps, but any such back-up lamp or lamps shall not be lighted when the motor vehicle is in forward motion.
- (d) Any vehicle 80 inches or more in overall width, if not otherwise required by K.S.A. 8-1710, and amendments thereto, may be equipped with not more than three identification lamps showing to the front which shall emit an amber light without glare and not more than three identification lamps showing to the rear which shall emit a red light without glare. Such lamps shall be mounted as specified in subsection (g) of K.S.A. 8-1710, and amendments thereto.
- (e) Any vehicle may be equipped with one or more side marker lamps and any such lamp may be flashed in conjunction with turn or vehicular hazard warning signals. Side marker lamps located toward the front of a vehicle shall be amber and side marker lamps located toward the rear shall be red.
- (f) Any motor vehicle may be equipped with neon ground effect lighting, except that such lighting shall not flash, be any shade of red nor shall any portion of the neon tubes be visible. "Neon ground effect lighting" means neon tubes placed underneath the motor vehicle for the purpose of illuminating the ground below the motor vehicle creating a halo light effect.
- (g) Any motor vehicle may be equipped with head lamps which alternately flash or simultaneously flash when such motor vehicle is being used as the lead motor vehicle of a funeral procession. A funeral hearse may serve as a funeral lead vehicle.

8-1724 Multiple-beam lighting—High beam indicator
(STO §164)

- (a) Except as hereinafter provided, the head lamps or the auxiliary driving lamp or the auxiliary passing lamp or combination thereof on motor vehicles shall be so arranged that the driver may select at will between distributions of light projected to different elevations, and in addition, such lamps may be so arranged that such selection can be made automatically, subject to the following limitations:
- (1) There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least four hundred fifty (450) feet ahead for all conditions of loading.
- (2) There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least one hundred fifty (150) feet ahead; and on a straight level road under any condition of loading none of the high intensity portion of the beam shall be directed to strike the eyes of an approaching driver.
- (b) Every new motor vehicle registered in this state which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamp is in use, and shall not otherwise be lighted. Said indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.

8-1725 Head lamps; use of
(STO §165)

When a motor vehicle is being operated on a highway or shoulder adjacent thereto during the times specified in K.S.A. 8-1703, and amendments thereto, the driver shall use a distribution of light, or composite beam,

directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:

- (a) When the driver of a vehicle approaches an oncoming vehicle within 500 feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam, specified in subsection (a)(2) of K.S.A. 8-1724, and amendments thereto, or subsection (b)(2) of K.S.A. 8-1805, and amendments thereto, shall be dimmed to avoid glare at all times, regardless of road contour and loading.
- (b) When the driver of a vehicle approaches another vehicle from the rear, within 300 feet, except when engaged in the act of overtaking and passing, such driver shall use a distribution of light permissible under this article [8-1701 through 8-1761] other than the uppermost distribution of light specified in subsection (a)(1) of K.S.A. 8-1724, and amendments thereto, or subsection (b)(1) of K.S.A. 8-1805, and amendments thereto.
- (c) The requirements in subsections (a) and (b) shall not apply to:
 - (1) Authorized emergency vehicles displaying alternately flashing or simultaneously flashing head lamps as provided in K.S.A. 8-1720, and amendments thereto; or
 - (2) school buses displaying alternately flashing or simultaneously flashing head lamps as provided in K.S.A. 8-1730, and amendments thereto.

8-1726 Single-beam road-lighting equipment permitted on certain vehicles
(STO §166)

Head lamp systems which provide only a single distribution of light shall be permitted on all farm tractors, regardless of date of manufacture, and on other motor vehicles manufactured and sold prior to July 1, 1938, in lieu of multiple-beam road-lighting equipment herein specified, if the single distribution of light complies with the following requirements and limitations:

- (1) The head lamps shall be so aimed that when the vehicle is not loaded none of the high intensity portion of the light at a distance of twenty-five (25) feet ahead shall project higher than a level of five (5) inches below the level of the center of the lamp from which it comes, and in no case higher than forty-two (42) inches above the level on which the vehicle stands at a distance of seventy-five (75) feet ahead.
- (2) The intensity shall be sufficient to reveal persons and vehicles at a distance of at least two hundred (200) feet.

8-1727 Alternate road-lighting equipment on certain vehicles; limitations on speed
(STO §167)

Any motor vehicle may be operated under the conditions specified in K.S.A. 8-1703 when equipped with two (2) lighted lamps upon the front thereof capable of revealing persons and vehicles one hundred (100) feet ahead in lieu of lamps required in K.S.A. 8-1724 or 8-1726: Provided, That at no time shall it be operated at a speed in excess of twenty-five (25) miles per hour.

8-1728 Number of driving lamps required or permitted
(STO §168)

- (a) At all times specified in K.S.A. 8-1703, at least two (2) lighted head lamps shall be displayed, one (1) on each side at the front of every motor vehicle, except when such vehicle is parked, subject to the regulations governing lights on parked vehicles.
- (b) Whenever a motor vehicle equipped with head lamps as herein required is also equipped with any auxiliary lamps or a spot lamp or any other lamp on the front thereof projecting a beam of intensity greater than three hundred (300) candlepower, not more than a total of four (4) of any such lamps on the front of a vehicle shall be lighted at any one time when upon a highway.

8-1729 Lights and signals
(STO §169)

- (a) During the times specified in K.S.A. 8-1703, and amendments thereto, any lighted lamp or illuminating device upon a motor vehicle, other than head lamps, spot lamps, auxiliary lamps, flashing turn signals, vehicular hazard warning lamps and school bus warning lamps, which projects a beam of light of an inten-

sity greater than 300 candlepower shall be so directed that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

- (b) Except as required or permitted in K.S.A. 8-1720 and 8-1730, and amendments thereto, no person shall drive or move any vehicle or equipment upon any highway with any lamp or device capable of displaying a red light visible from directly in front of the center thereof, nor shall any vehicle or equipment upon any highway have any lamp or device displaying any color of light visible from directly in front of the center thereof except white or amber or any shade of color between white and amber.
- (c) Flashing lights are prohibited except as authorized or required in K.S.A. 8-1717, 8-1720, 8-1721, 8-1722, 8-1723, 8-1730, 8-1730a and 8-1731, and amendments thereto.
- (d) The flashing lights described in K.S.A. 8-1720, 8-1730 and 8-1730a, and amendments thereto, shall not be used on any vehicle other than a school bus, church bus or day care program bus, as defined in K.S.A. 8-1730a, and amendments thereto, or an authorized emergency vehicle.
- (e) All lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except the stop light or other signal device, which may be red, amber or yellow, and except that the light illuminating the license plate shall be white and the light emitted by a back-up lamp shall be white or amber.

8-1734 Braking systems for motor vehicles and combinations of vehicles

(STO §173)

- (a) Every motor vehicle and every combination of vehicles shall have a service braking system which will stop such vehicle or combination within forty (40) feet from an initial speed of twenty (20) miles per hour on a level, dry, smooth, hard surface.
- (b) Every motor vehicle and combination of vehicles shall have a parking brake system adequate to hold such vehicle or combination on any grade on which it is operated under all conditions of loading, on a surface free from snow, ice or loose material.
- (c) When necessary for the safe operation of any vehicle or class of vehicles, the secretary of transportation may require additional braking systems.
- (d) The provisions of this section shall not apply to vehicles registered pursuant to K.S.A. 8-166 et seq. and any amendments thereto.

8-1738 Horns and warning devices

(STO §174)

- (a) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or whistle. The driver of a motor vehicle when reasonably necessary to insure safe operation shall give audible warning with his horn but shall not otherwise use such horn when upon a highway.
- (b) No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle or bell, except as otherwise permitted in this section.
- (c) Any vehicle may be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal. Such a theft alarm signal device may use a whistle, bell, horn or other audible signal but shall not use a siren.
- (d) Every authorized emergency vehicle shall be equipped with a siren, whistle or bell, capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type approved by the secretary of transportation, but such siren shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which said latter events the driver of such vehicle shall sound said siren when reasonably necessary to warn pedestrians and other drivers of the approach thereof.
- (e) Every truck specifically designed and equipped and used exclusively for garbage, refuse or solid waste disposal operations shall be equipped with a whistle, bell or other audible signal. Such whistle, bell or other audible signal shall be used only when the driver of the truck is backing such truck. Notwithstanding the

provisions of this section, a city may adopt an ordinance prohibiting the activation of such whistle, bell or other audible signal during specific periods of time during the day.

8-1739 Mufflers and noise suppressing systems

(STO §175)

- (a) Every vehicle shall be equipped, maintained and operated so as to prevent excessive or unusual noise. Every motor vehicle at all times shall be equipped with a muffler or other effective noise suppressing system in good working order and in constant operation, and no person shall use a muffler cut-out, bypass or similar device.
 - (b) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.
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8-1740 Mirrors

(STO §176)

- (a) After January 1, 1975, every motor vehicle shall be equipped with a mirror mounted on the left side of the vehicle and so located as to reflect to the driver a view of the highway to the rear of the vehicle.
 - (b) Every motor vehicle, except a motorcycle, shall be equipped with an additional mirror mounted either inside the vehicle approximately in the center or outside the vehicle on the right side and so located as to reflect to the driver a view of the highway to the rear of the vehicle.
 - (c) All mirrors required by regulations of the United States department of transportation shall be maintained in good condition.
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8-1741 Windshields and windows

(STO §177)

- (a) No person shall drive any motor vehicle with any sign, poster or other nontransparent material upon the front windshield, side wings or side or rear windows of such vehicle which substantially obstructs, obscures or impairs the driver's clear view of the highway or any intersecting highway.
 - (b) No person shall drive any motor vehicle with a damaged front windshield or side or rear windows which substantially obstructs the driver's clear view of the highway or any intersecting highway.
 - (c) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.
 - (d) Every windshield wiper upon a motor vehicle shall be maintained in good working order.
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8-1742 Restrictions as to tire equipment

(STO §178)

- (a) Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.
- (b) No person shall operate or move on any highway any motor vehicle, trailer or semitrailer having any metal tire in contact with the roadway.
- (c) No tire on a vehicle moved on a highway shall have on its periphery any protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use:
 - (1) Farm machinery with tires having protuberances which will not injure the highway;
 - (2) tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to skid;
 - (3) studded traction equipment upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to skid; or
 - (4) pneumatic tires having metallic or nonmetallic studs designed to improve traction without materially injuring the surface of the highway. To qualify under paragraph (3) or (4), such tires or studded traction equipment shall be approved by the secretary of transportation by adoption of rules and regulations, and their use may be limited to certain months or types of vehicles by such rules and regulations.

- (d) The secretary of transportation and local authorities in their respective jurisdictions may issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this section.
- (e) It is unlawful for any person to operate a motor vehicle or combination of vehicles having one or more tires in an unsafe condition. A solid rubber tire is in an unsafe condition if it does not comply with the provisions of subsection (a). A pneumatic tire is in an unsafe condition if it has:
- (1) Any part of the ply or cord exposed;
 - (2) any bump, bulge or separation;
 - (3) a tread design depth of less than 1/16 inch measured in any two or more adjacent tread grooves, exclusive of tie bars, or, for those tires with tread wear indicators worn to the level of the tread wear indicators in any two tread grooves;
 - (4) a marking "not for highway use" or "for racing purposes only" or "unsafe for highway use";
 - (5) tread of sidewall cracks, cuts or snags deep enough to expose the body cord;
 - (6) been regrooved or recut below the original tread design depth, excepting special taxi tires which have extra undertread rubber and are identified as such; or
 - (7) such other conditions as may be reasonably demonstrated to render it unsafe.
- (f) The provisions of subsection (e) shall not apply to a vehicle or combination of vehicles being transported by a wrecker or tow truck, as defined in K.S.A. 66-1329, and amendments thereto.
- (g) It shall be unlawful for any person to operate a vehicle with a single tire on any hubs configured for a dual tire assembly. The provisions of this subsection shall not apply: (1) To any truck registered for a gross weight of 20,000 pounds or less; (2) to any vehicle or combination of vehicles operating with wide-base single tires, as defined in K.S.A. 8-1742b, and amendments thereto, on any hubs configured for a dual tire assembly; (3) to any single axle with hubs configured for a dual tire assembly when such single axle does not exceed 9,000 pounds and is a part of a triple-axle combination; or (4) in cases of emergency.

8-1742a Sale of unsafe tires

(STO §178(h))

No person in the business of selling tires shall sell or offer for sale for highway use any tire which is in unsafe condition or which has tread depth of less than 1/16 inch measured as provided in subsection (e) of K.S.A. 8-1742 and amendments thereto. Violation of this section is a misdemeanor.

8-1744 Flares or warning devices; vehicles subject to requirements; use, when required

(a) No person shall operate any truck, bus or truck-tractor, or any motor vehicle towing a trailer, semitrailer or pole trailer eighty (80) inches or more in width or thirty (30) feet or more in length, upon any highway outside an urban district or upon any divided highway at any time from a half hour after sunset to a half hour before sunrise unless there shall be carried in such vehicles the following equipment, except as provided in subsection (b):

(1) At least three (3) flares or three (3) red electric lanterns or three (3) portable red emergency reflectors, each of which shall be capable of being seen and distinguished at a distance of not less than six hundred (600) feet under normal atmospheric conditions at nighttime.

No flare, fusee, electric lantern or warning flag shall be used for the purpose of compliance with the requirements of this section, unless such equipment is of a type which has been submitted to the secretary of transportation and approved by the secretary. No portable reflector unit shall be used for the purpose of compliance with the requirements of this section, unless it is so designed and constructed as to be capable of reflecting red light clearly visible from all distances within six hundred (600) feet to one hundred (100) feet under normal atmospheric conditions at night when directly in front of lawful lower beams of head lamps, and unless it is of a type which has been submitted to and approved by the secretary of transportation.

(2) At least three (3) red-burning fusees, unless red electric lanterns or red portable emergency reflectors are carried.

- (b) No person shall operate at the time and under conditions stated in subsection (a) any motor vehicle used for the transportation of explosives or any cargo tank truck used for the transportation of flammable liquids or compressed gases, unless there shall be carried in such vehicle three (3) red electric lanterns or three (3) portable red emergency reflectors meeting the requirements of subsection (a), and there shall not be carried in any said vehicle, or in any vehicle using compressed gas as a fuel, any flares, fusees or signal produced by flame.
- (c) No person shall operate any vehicle described in subsection (a) or (b) upon any highway outside of an urban district or upon a divided highway at any time when lighted lamps are not required by K.S.A. 8-1703, unless there shall be carried in such vehicle at least two (2) red flags, not less than twelve (12) inches square, with standards to support such flags.
- (d) Any person who is subject to requirements of any federal agency with respect to flares, fusees, electric lanterns or warning flags and who is in compliance with such federal regulations shall be deemed to be in compliance with the provisions of this section and K.S.A. 8-1745.

8-1745 Display of vehicular hazard warning signal lamps and warning devices by certain stopped or disabled vehicles

- (a) Whenever any truck, bus, truck-tractor, trailer, semitrailer or pole trailer eighty (80) inches or more in overall width or thirty (30) feet or more in overall length is stopped upon a roadway or adjacent shoulder, the driver immediately shall actuate vehicular hazard warning signal lamps meeting the requirements of K.S.A. 8-1722. Such lights need not be displayed by a vehicle parked lawfully in an urban district, or stopped lawfully to receive or discharge passengers, or stopped to avoid conflict with other traffic or to comply with the directions of a police officer or an official traffic-control device, or while the devices specified in subsections (b) to (h) are in place.
- (b) Whenever any vehicle of a type referred to in subsection (a) is disabled, or stopped for more than ten (10) minutes, upon a roadway outside of an urban district at any time when lighted lamps are required, the driver of such vehicle shall display the following warning devices, except as provided in subsection (c):
- (1) A lighted fusee, a lighted red electric lantern or a portable red emergency reflector shall immediately be placed at the traffic side of the vehicle in the direction of the nearest approaching traffic.
 - (2) As soon thereafter as possible but in any event within the burning period of the fusee, the driver shall place three (3) liquid-burning flares, or three (3) lighted red electric lanterns, or three (3) portable red emergency reflectors on the roadway in the following order:
 - (i) One (1) approximately one hundred (100) feet from the disabled vehicle in the center of the lane occupied by such vehicle and toward traffic approaching in that lane.
 - (ii) One (1) approximately one hundred (100) feet in the opposite direction from the disabled vehicle and in the center of the traffic lane occupied by such vehicle.
 - (iii) One (1) at the traffic side of the disabled vehicle not less than ten (10) feet rearward or forward thereof in the direction of the nearest approaching traffic. If a lighted red electric lantern or a red portable emergency reflector has been placed at the traffic side of the vehicle in accordance with paragraph (1) of this subsection, it may be used for this purpose.
- (c) Whenever any vehicle referred to in this section is disabled, or stopped for more than ten (10) minutes, within five hundred (500) feet of a curve, hillcrest or other obstruction to view, the warning device in that direction shall be so placed as to afford ample warning to other users of the highway, but in no case less than one hundred (100) feet nor more than five hundred (500) feet from the disabled vehicle.
- (d) Whenever any vehicle of a type referred to in this section is disabled, or stopped for more than ten (10) minutes, upon any roadway of a divided highway during the time lighted lamps are required, the appropriate warning devices prescribed in subsections (b) and (e) shall be placed as follows: One (1) at a distance of approximately two hundred (200) feet from the vehicle in the center of the lane occupied by the stopped vehicle and in the direction of traffic approaching in that lane; one (1) at a distance of approximately one hundred (100) feet from the vehicle, in the center of the lane occupied by the vehicle and in the direction of traffic approaching in that lane; one (1) at the traffic side of the vehicle and approximately ten (10) feet from the vehicle in the direction of the nearest approaching traffic.

- (e) Whenever any motor vehicle used in the transportation of explosives or any cargo tank truck used for the transportation of any flammable liquid or compressed gas is disabled, or stopped for more than ten (10) minutes, at any time and place mentioned in subsection (b), (c) or (d), the driver of such vehicle shall immediately display red electric lanterns or portable red emergency reflectors in the same number and manner specified therein. Flares, fusees or signals produced by flame shall not be used as warning devices for vehicles of the type mentioned in this subsection nor for vehicles using compressed gas as a fuel.
- (f) The warning devices described in subsections (b) to (e) need not be displayed where there is sufficient light to reveal persons and vehicles within a distance of one thousand (1,000) feet.
- (g) Whenever any vehicle described in this section is disabled, or stopped for more than ten (10) minutes, upon a roadway outside of an urban district or upon the roadway of a divided highway at any time when lighted lamps are not required by K.S.A. 8-1703, the driver of the vehicle shall display two (2) red flags as follows:
- (1) If traffic on the roadway moves in two (2) directions, one (1) flag shall be placed approximately one hundred (100) feet to the rear and one (1) flag approximately one hundred (100) feet in advance of the vehicle in the center of the lane occupied by such vehicle.
 - (2) Upon a one-way roadway, one (1) flag shall be placed approximately one hundred (100) feet and one (1) flag approximately two hundred (200) feet to the rear of the vehicle in the center of the lane occupied by such vehicle.
- (h) When any vehicle described in this section is stopped entirely off the roadway and on an adjacent shoulder at any time and place hereinbefore mentioned, the warning devices shall be placed, as nearly as practicable, on the shoulder near the edge of the roadway.
- (i) The flares, fusees, red electric lanterns, portable red emergency reflectors and flags to be displayed as required in this section shall conform with the requirements of K.S.A. 8-1744 applicable thereto.

8-1746 Vehicles transporting hazardous materials

- (a) The secretary of transportation may adopt rules and regulations for the safe transportation of hazardous materials.
- (b) Any person operating a vehicle transporting any hazardous material as a cargo or part of a cargo upon a highway shall at all times comply with rules and regulations of the secretary adopted under this section.
- (c) Every such vehicle shall be marked or placarded at such places as prescribed by such rules and regulations.
- (d) Every such vehicle shall be equipped with fire extinguishers of a type, size and number approved by the secretary, filled and ready for immediate use, and placed at convenient points on the vehicle.
- (e) Violation of this section is a misdemeanor.

8-1749 Safety belts and shoulder harnesses

- (a) Every passenger car manufactured or assembled after January 1, 1965, shall be equipped with at least two (2) lap-type safety belt assemblies for use in the front seating positions.
- (b) Every passenger car manufactured or assembled after January 1, 1968, shall be equipped with a lap-type safety belt assembly for each permanent passenger seating position. This requirement shall not apply to police vehicles.
- (c) Every passenger car manufactured or assembled after January 1, 1968, shall be equipped with at least two (2) shoulder harness-type safety belt assemblies for use in the front seating positions.
- (d) The secretary of transportation shall except specified types of motor vehicles or seating positions within any motor vehicle from the requirements imposed by subsections (a) to (c) when compliance would be impractical.
- (e) No person shall distribute, have for sale, offer for sale or sell any safety belt or shoulder harness for use in motor vehicles unless it meets current minimum standards and specifications approved by the secretary of transportation.

8-1749a One-way glass and sun screening devices**(STO §181)**

- (a) No motor vehicle required to be registered in this state and which is operated on the highways of this state shall be equipped with one-way glass or any sun screening device, as defined in K.S.A. 8-1749b, and amendments thereto, and used in conjunction with windshields, side wings, side windows or rear windows that do not meet the following requirements:
- (1) A sun screening device when used in conjunction with the windshield shall be nonreflective and shall not be red, yellow or amber in color. A sun screening device shall be used only along the top of the windshield and shall not extend downward beyond the AS1 line which is clearly defined and marked;
 - (2) a sun screening device when used in conjunction with the side wings or side windows located at the immediate right and left of the driver, the side windows behind the driver and the rear most window shall be nonreflective; and
 - (3) the total light transmission shall not be less than 35% when a sun screening device is used in conjunction with other existing sun screening devices.
- (b) Subsection (a)(3) shall not apply to a window of a law enforcement motor vehicle that is clearly identified as such by words or other symbols on the outside of the vehicle.
- (c) The superintendent of the highway patrol may adopt such rules and regulations necessary to carry out the provisions of this section.
- (d) This section shall not prohibit labels, stickers or other informational signs that are required or permitted by state law.
- (e) No motor vehicle required to be registered in this state which is operated on the highways of this state shall be equipped with head lamps which are covered with any sun screening device, adhesive film or other glaze or application which, when such lamps are not in operation, is highly reflective or otherwise nontransparent.
- (f) Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor.

8-1749b Sun screening devices—Definitions

For the purpose of K.S.A. 8-1749a, and amendments thereto:

- (a) “Sun screening devices” means a film material or device that is designed to be used in conjunction with motor vehicle safety glazing materials for reducing the effects of the sun;
- (b) “light transmission” means the ratio of the amount of total light to pass through a product or material including any safety glazing material to the amount of the total light falling on the product or material and the glazing;
- (c) “luminous reflectants” means the ratio of the amount of total light that is reflected outward by the product or material to the amount of the total light falling on the product or material;
- (d) “nonreflective” means a product or material designed to absorb light rather than to reflect it.

8-1749c Unlawful installation of sun screening device**(STO §181(f))**

Any person who installs a sun screening device on a motor vehicle which is not in compliance with the provisions of K.S.A. 8-1749a, and amendments thereto, upon conviction, shall be guilty of a class C misdemeanor.

8-1759 Spot inspections by highway patrol

- (a) Every driver of a motor vehicle shall stop and submit such vehicle and its equipment to an inspection of the mechanical condition thereof and such test, with reference thereto, as may be appropriate at any location where signs are displayed requiring such stop and where members of the Kansas highway patrol are conducting such inspections and tests of motor vehicles. Such an inspection and test shall be referred to as a “spot inspection.” Spot inspections shall be conducted in a manner that the operator of a motor vehicle, whether private or commercial, shall not be unnecessarily inconvenienced by extended detours, unnecessary delays or any other unreasonable cause.
- (b) Violation of this section is a class A misdemeanor.

8-1759a Inspection by highway patrol upon reasonable cause

- (a) Uniformed members of the highway patrol, at any time upon reasonable cause to believe that a vehicle is unsafe or not equipped as required by law, or that its equipment is not in proper adjustment or repair, may require the driver of such vehicle to stop and submit such vehicle to an inspection and such test with reference thereto as may be appropriate.
- (b) In the event a vehicle is found to be in unsafe condition or any required part or equipment is not present or in proper repair and adjustment, the member of the highway patrol shall give a written notice of such defect to the driver.
- (c) In the event any such vehicle is, in the reasonable judgment of the member of the highway patrol, in such condition that further operation would be hazardous, such member of the highway patrol may require, in addition, that the vehicle not be operated under its own power or that it be driven to the nearest garage or other place of safety.
- (d) Violation of this section is a class A misdemeanor.

8-1761 Improper compression release engine braking system***(STO §175.1)***

- (a) It shall be unlawful for the driver of any motor vehicle to use or cause to be used or operated any compression release engine braking system without such motor vehicle being equipped with a muffler in accordance with K.S.A. 8-1739, and amendments thereto.
- (b) As used in this section, "compression release engine braking system" means a hydraulically operated device that converts a power producing diesel engine into a power absorbing retarding mechanism.
- (c) This section shall be part of and supplemental to the uniform act regulating traffic on highways.

8-1801 Motorcycle—Head lamps***(STO §183)***

- (a) Every motorcycle and every motor-driven cycle shall be equipped with at least (1) head lamp which shall comply with the requirements and limitations of this article [8-1801 through 8-1810].
- (b) Every head lamp upon every motorcycle and motor-driven cycle shall be located at a height of not more than fifty-four (54) inches nor less than twenty-four (24) inches to be measured as set forth in subsection (b) of K.S.A. 8-1704.

8-1802 Motorcycle—Tail lamps***(STO §184)***

- (a) Every motorcycle and motor-driven cycle shall have at least one (1) tail lamp which shall be located at a height of not more than seventy-two (72) nor less than fifteen (15) inches.
- (b) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty (50) feet to the rear. Any tail lamp or tail lamps, together with any separate lamp or lamps for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted.

8-1803 Motorcycle—Reflectors***(STO §185)***

Every motorcycle and motor-driven cycle shall carry on the rear, either as part of the tail lamp or separately, at least one (1) red reflector meeting the requirements of subsection (b) of K.S.A. 8-1707.

8-1804 Motorcycle—Stop lamps and turn signals***(STO §186)***

- (a) Every motorcycle and motor-driven cycle shall be equipped with at least one (1) stop lamp meeting the requirements of subsection (a) of K.S.A. 8-1721.
- (b) Every motorcycle manufactured after January 1, 1973, shall be equipped with electric turn signals meeting the requirements of subsection (b) of K.S.A. 8-1721. Motor-driven cycles may, but need not, be equipped with electric turn signals.

8-1805 Motorcycle—Multiple-beam road-lighting equipment**(STO §187)**

Every motorcycle, other than a motor-driven cycle, shall be equipped with multiple-beam road-lighting equipment. Such equipment shall:

- (a) Reveal persons and vehicles at a distance of at least three hundred (300) feet ahead when the uppermost distribution of light is selected; and
- (b) Reveal persons and vehicles at a distance of at least one hundred fifty (150) feet ahead when the lowermost distribution of light is selected, and on a straight, level road under any condition of loading, none of the high intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

8-1806 Road-lighting equipment on motor-driven cycles**(STO §188)**

The head lamp or head lamps upon every motor-driven cycle may be of the single-beam or multiple-beam type, but in either event shall comply with the requirements and limitations as follows:

- (a) Every such head lamp or head lamps on a motor-driven cycle shall be of sufficient intensity to reveal persons and vehicles at a distance of not less than one hundred (100) feet when the motor-driven cycle is operated at any speed less than twenty-five (25) miles per hour, and at a distance of not less than two hundred (200) feet when the motor-driven cycle is operated at a speed of twenty-five (25) or more miles per hour, and at a distance of not less than three hundred (300) feet when the motor-driven cycle is operated at a speed of thirty-five (35) or more miles per hour.
- (b) In the event the motor-driven cycle is equipped with a multiple-beam head lamp or head lamps, such equipment shall comply with the requirements of K.S.A. 8-1805.
- (c) In the event the motor-driven cycle is equipped with a single-beam lamp or lamps, such lamp or lamps shall be so aimed that when the vehicle is loaded none of the high intensity portion of light, at a distance of twenty-five (25) feet ahead, shall project higher than the level of the center of the lamp from which it comes.

8-1807 Motorcycle & motor-driven cycle—Brakes**(STO §189)**

Every motorcycle and motor-driven cycle shall comply with the provisions of subsection (a) of K.S.A. 8-1734, except that the wheel of a sidecar attached to a motorcycle or to a motor-driven cycle, and the front wheel of a motor-driven cycle need not be equipped with brakes: Provided, That such motorcycle or motor-driven cycle is capable of complying with the performance requirements of this article [8-1801 through 8-1810].

8-1808 Motorcycle & motor-driven cycle—Performance ability of brakes**(STO §190)**

Upon application of the service brake, every motorcycle and motor-driven cycle, at all times and under all conditions of loading, shall be capable of stopping from a speed of twenty (20) miles per hour in not more than thirty (30) feet, such distance to be measured from the point at which movement of the service brake pedal or control begins.

Tests for stopping distance shall be made on a dry, smooth, hard and substantially level surface, not to exceed one percent (1%) grade, that is free from loose material.

8-1810 Motorcycle & motor-driven cycle—Other equipment**(STO §191)**

- (a) Every motorcycle and every motor-driven cycle shall comply with the requirements and limitations of K.S.A. 8-1738 on horns and warning devices, K.S.A. 8-1739 on noise prevention and mufflers, K.S.A. 8-1740 on mirrors and K.S.A. 8-1742 on tires.
- (b) Every motorcycle and every motor-driven cycle shall comply with the requirements and limitations contained in this article [8-1801 through 8-1810], and unless otherwise specifically made applicable, motorcycles and motor-driven cycles shall not be subject to the requirements and limitations imposed elsewhere in this act with respect to equipment on vehicles.

8-1901 Penalties—Size and weight laws

- (a) It shall be unlawful for any person to drive or move or for the owner or lessee to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles of a size or weight exceeding the limitations stated in article 19 of chapter 8 of Kansas Statutes Annotated or otherwise in violation of this article [8-1901 thru 8-1917], and the maximum size and weight of vehicles herein specified shall be lawful throughout this state, and local authorities shall have no power or authority to alter such limitations except as express authority may be granted in this article.
- (b) Any person violating any of the provisions of article 19 of chapter 8 of the Kansas Statutes Annotated, except for the provisions of K.S.A. 8-1908 and 8-1909, and amendments thereto, shall, upon conviction thereof, be fined in an amount not to exceed \$500.
- (c) Any person violating any of the provisions of K.S.A. 8-1908 or 8-1909, and amendments thereto, shall, upon a first conviction thereof, pay a fine from one, but not both of the schedules listed in subsection (c) of K.S.A. 8-2118, and amendments thereto.
- (d) Except as otherwise specifically provided in this act, the provisions of article 19 of chapter 8 of Kansas Statutes Annotated governing size, weight and load shall not apply to fire apparatus, road machinery, farm tractors or to implements of husbandry temporarily moved upon a highway, or to a vehicle operated under the terms of a currently valid special permit issued in accordance with K.S.A. 8-1911, and amendments thereto.
- (e) Except on highways designated as part of the national system of interstate defense highways, the gross weight limitation prescribed by article 19 of chapter 8 of Kansas Statutes Annotated on any axle or tandem, triple or quad axles shall not apply to: (1) Trucks specifically designed and equipped and used exclusively for garbage, refuse or solid waste disposal operations when loaded with garbage, refuse or waste; or (2) trucks mounted with a fertilizer spreader used or manufactured principally to spread animal dung, except that this paragraph (2) shall not apply to truck tractors so equipped. Except that such trucks under this subsection shall not exceed the maximum gross weight limitations contained in the table in K.S.A. 8-1909, and amendments thereto.
- (f) As used in this section, “conviction” means a final conviction without regard to whether sentence was suspended or probation granted after such conviction, and a forfeiture of bail, bond or collateral deposited to secure a defendant’s appearance in court, which forfeiture has not been vacated, is equivalent to a conviction.

8-1903 Loads on passenger vehicles extending to either side

No passenger-type vehicle shall be operated on any highway with any load carried thereon extending beyond the left side of such vehicle nor extending more than six (6) inches beyond the right side thereof.

8-1905 Projecting loads to the front and rear

- (a) The load upon any vehicle operated alone, or the load upon the front vehicle of a combination of vehicles, shall not extend more than three (3) feet beyond the front wheels of such vehicle or the front bumper of such vehicle if it is equipped with a bumper.
- (b) Any vehicle or combination of vehicles transporting passenger vehicles or other motor vehicles may carry a load which extends no more than three (3) feet beyond the front and four (4) feet beyond the rear of the transporting vehicle or combination of vehicles.

8-1906 Securing loads on vehicles; requirements for hauling

(STO §179)

- (a) No vehicle shall be driven or moved on any highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom, except that:
- (1) This section shall not prohibit the necessary spreading of any substance in highway maintenance or construction operations; and
- (2) subsections (a) and (c) shall not apply to trailers or semitrailers when hauling livestock if such trailers or semitrailers are properly equipped with a cleanout trap and such trap is operated in a closed position unless material is intentionally spilled when the trap is in a closed position. Paragraph (2) shall not apply to trailers

or semitrailers used for hauling livestock when livestock are not being hauled in such trailers or semitrailers.

- (b) All trailers or semitrailers used for hauling livestock shall be cleaned out periodically.
- (c) No person shall operate on any highway any vehicle with any load unless such load and any covering thereon is securely fastened so as to prevent the covering or load from becoming loose, detached or in any manner a hazard to other users of the highway.

8-1908 Gross weight limits on wheels and axles

- (a) The gross weight upon any wheel of a vehicle shall not exceed 10,000 pounds.
- (b) The gross weight upon any one axle, including any one axle of a group of axles, of a vehicle shall not exceed 20,000 pounds.
- (c) Any axle located within seven feet of any adjacent axle shall, when the wheels of such axle are in contact with the road surface, carry its proportionate part of the load permitted on such axles. An axle shall not be used to determine the lawful axle weight under this section or the gross weight under K.S.A. 8-1909, and amendments thereto, when the wheels of such axle are not in contact with the road surface.
- (d) As used in this section:
 - (1) "Gross weight on any one axle" means the total load on all wheels whose centers are included within two parallel transverse vertical planes not more than 40 inches apart.
 - (2) "Tandem axles" means two or more consecutive axles, arranged in tandem and articulated from a common attachment to the vehicle or individually attached to the vehicle, with such axles spaced not less than 40 inches and not more than 96 inches apart.
 - (3) "Triple axles" means three or more consecutive axles, arranged in tandem and articulated from a common attachment to the vehicle or individually attached to the vehicle, with such axles spaced more than 96 inches and not more than 120 inches apart.
 - (4) "Quad axles" means four or more consecutive axles, arranged in tandem and articulated from a common attachment to the vehicle or individually attached to the vehicle, with such axles spaced more than 120 inches and not more than 150 inches apart.
- (e) The gross weight on tandem axles shall not exceed 34,000 pounds.

8-2010c Wreckers, tow trucks or car carriers; operation of emergency lights

- (a) Wreckers, tow trucks or car carriers designated as authorized emergency vehicles under subsection (c) of K.S.A. 8-2010, and amendments thereto, shall operate such lights authorized under K.S.A. 8-1720, and amendments thereto, only when such wreckers, tow trucks or car carriers are stationary and providing wrecker or towing service at the scene of a vehicle accident or providing emergency service on the side of a highway.
- (b) The provisions of this section shall be part of and supplemental to the uniform act regulating traffic on highways.

8-2011 Removal of traffic hazards on private property

(STO §126)

- (a) It shall be the duty of the owner of real property to remove from such property any tree, plant, shrub or other obstruction, or part thereof, which, by obstructing the view of any driver, constitutes a traffic hazard.
- (b) When the secretary of transportation or any local authority determines upon the basis of an engineering and traffic investigation that such a traffic hazard exists, the secretary or such local authority shall notify the owner and order that the hazard be removed within ten (10) days.
- (c) The failure of the owner to remove such traffic hazard within ten (10) days shall constitute an offense punishable by a penalty of ten dollars (\$10) and every day said owner shall fail to remove it shall be a separate and distinct offense.

8-2101 Parties to a crime

(STO §202)

Every person who commits, attempts to commit, conspires to commit, or aids or abets in the commission of, any act declared in this act to be a crime, whether individually or in connection with one (1) or more other

persons or as a principal, agent or accessory, shall be guilty of such offense, and every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any provision of this act is likewise guilty of such offense.

8-2102 Offenses by persons owning or controlling vehicles

(STO §203)

It is unlawful for the owner, or any other person, employing or otherwise directing the driver of any vehicle to require or knowingly to permit the operation of such vehicle upon a highway in any manner contrary to law.

8-2107 Bond or license deposit procedure

Amended 2011

- (a)(1) Notwithstanding any other provisions of the uniform act regulating traffic on highways, when a person is stopped by a police officer for any of the offenses described in subsection (d) and such person is not immediately taken before a judge of the district court, the police officer may require the person stopped, subject to the provisions of subsection (c), to deposit with the officer a valid Kansas driver's license in exchange for a receipt therefor issued by such police officer, the form of which shall be approved by the division of vehicles. Such receipt shall be recognized as a valid temporary Kansas driver's license authorizing the operation of a motor vehicle by the person stopped until the date of the hearing stated on the receipt. The driver's license and a written copy of the notice to appear shall be delivered by the police officer to the court having jurisdiction of the offense charged as soon as reasonably possible. If the hearing on such charge is continued for any reason, the judge may note on the receipt the date to which such hearing has been continued and such receipt shall be recognized as a valid temporary Kansas driver's license until such date, but in no event shall such receipt be recognized as a valid Kansas driver's license for a period longer than 30 days from the date set for the original hearing. Any person who has deposited a driver's license with a police officer under this subsection (a) shall have such license returned upon final determination of the charge against such person.
- (2) In the event the person stopped deposits a valid Kansas driver's license with the police officer and fails to appear in the district court on the date set for appearance, or any continuance thereof, and in any event within 30 days from the date set for the original hearing, the court shall forward such person's driver's license to the division of vehicles with an appropriate explanation attached thereto. Upon receipt of such person's driver's license, the division shall suspend such person's privilege to operate a motor vehicle in this state until such person appears before the court having jurisdiction of the offense charged, the court makes a final disposition thereof and notice of such disposition is given by the court to the division. No new or replacement license shall be issued to any such person until such notice of disposition has been received by the division. The provisions of K.S.A. 8-256, and amendments thereto, limiting the suspension of a license to one year, shall not apply to suspensions for failure to appear as provided in this subsection (a).
- (b) No person shall apply for a replacement or new driver's license prior to the return of such person's original license which has been deposited in lieu of bond under this section. Violation of this subsection (b) is a class C misdemeanor. The division may suspend such person's driver's license for a period of not to exceed one year from the date the division receives notice of the disposition of the person's charge as provided in subsection (a).
- (c)(1) In lieu of depositing a valid Kansas driver's license with the stopping police officer as provided in subsection (a), the person stopped may elect to give bond in the amount specified in subsection (d) for the offense for which the person was stopped. When such person does not have a valid Kansas driver's license, such person shall give such bond. Such bond shall be subject to forfeiture if the person stopped does not appear at the court and at the time specified in the written notice provided for in K.S.A. 8-2106, and amendments thereto.
- (2) Such bond may be a cash bond, a bank card draft from any valid and unexpired credit card approved by the division of vehicles or superintendent of the Kansas highway patrol or a guaranteed arrest bond certificate issued by either a surety company authorized to transact such business in this state or an automobile club authorized to transact business in this state by the commissioner of insurance. If any of the approved

bank card issuers redeem the bank card draft at a discounted rate, such discount shall be charged against the amount designated as the fine for the offense. If such bond is not forfeited, the amount of the bond less the discount rate shall be reimbursed to the person providing the bond by the use of a bank card draft. Any such guaranteed arrest bond certificate shall be signed by the person to whom it is issued and shall contain a printed statement that such surety company or automobile club guarantees the appearance of such person and will, in the event of failure of such person to appear in court at the time of trial, pay any fine or forfeiture imposed on such person not to exceed an amount to be stated on such certificate.

(3) Such cash bond shall be taken in the following manner: The police officer shall furnish the person stopped a stamped envelope addressed to the judge or clerk of the court named in the written notice to appear and the person shall place in such envelope the amount of the bond, and in the presence of the police officer shall deposit the same in the United States mail. After such cash payment, the person stopped need not sign the written notice to appear, but the police officer shall note the amount of the bond mailed on the notice to appear form and shall give a copy of such form to the person. If the person stopped furnishes the police officer with a guaranteed arrest bond certificate or bank card draft, the police officer shall give such person a receipt therefor and shall note the amount of the bond on the notice to appear form and give a copy of such form to the person stopped. Such person need not sign the written notice to appear, and the police officer shall present the notice to appear and the guaranteed arrest bond certificate or bank card draft to the court having jurisdiction of the offense charged as soon as reasonably possible.

(d) The offenses for which appearance bonds may be required as provided in subsection (c) and the amounts thereof shall be as follows:

On and after July 1, 1996:

Reckless driving	\$82
Driving when privilege is canceled, suspended or revoked	82
Failure to comply with lawful order of officer	57
Registration violation (registered for 12,000 pounds or less)	52
Registration violation (registered for more than 12,000 pounds)	92
No driver's license for the class of vehicle operated or violation of restrictions	52
Spilling load on highway	52
Transporting open container of alcoholic liquor or cereal malt beverage accessible while vehicle in motion	223

(e) In the event of forfeiture of any bond under this section, \$75 of the amount forfeited shall be regarded as a docket fee in any court having jurisdiction over the violation of state law.

(f) None of the provisions of this section shall be construed to conflict with the provisions of the nonresident violator compact.

(g) When a person is stopped by a police officer for any traffic infraction and the person is a resident of a state which is not a member of the nonresident violator compact, K.S.A. 8-1219 et seq., and amendments thereto, or the person is licensed to drive under the laws of a foreign country, the police officer may require a bond as provided for under subsection (c). The bond shall be in the amount specified in the uniform fine schedule in subsection (c) of K.S.A. 8-2118, and amendments thereto, plus \$75 which shall be regarded as a docket fee in any court having jurisdiction over the violation of state law.

(h) When a person is stopped by a police officer for failure to provide proof of financial security pursuant to K.S.A. 40-3104, and amendments thereto, and the person is a resident of another state or the person is licensed to drive under the laws of a foreign country, the police officer may require a bond as provided for under subsection (c). The bond shall be in the amount of \$75, plus \$75 which shall be regarded as a docket fee in any court having jurisdiction over the violation of state law.

(i) Except as provided further, the docket fee established in this section shall be the only fee collected or monies in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after the effective date of this act through **June 30, 2012**, the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

8-2109 Authority of officer at scene of accident

- (a) Except for felonies, a police officer at the scene of a traffic accident may issue a written traffic citation, as provided in K.S.A. 8-2106 and amendments thereto, to any driver of a vehicle involved in the accident when, based upon personal investigation, the officer has reasonable and probable grounds to believe that the person has committed any offense under the provisions of this act in connection with the accident.
- (b) A police officer at the scene of a traffic accident may arrest any driver of a vehicle involved in the accident when, based upon personal investigation, the officer has reasonable and probable grounds to believe that the person has committed any offense under the provisions of the uniform vehicle code in connection with the accident, except when every such offense is a traffic infraction.
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8-2110 Failure to comply with traffic citation

(STO §201.1)

Amended 2011

- (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. 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)(1) 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 notice, the division of vehicles will be notified to suspend the person's driving privileges. The district or municipal court may charge an additional fee of \$5 for mailing such notice. Upon the person's failure to comply within such 30 days of mailing notice, the district or municipal court shall electronically 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 to the informing court. When the court determines the person has complied with the terms of the traffic citation, the court shall immediately electronically notify the division of vehicles of such compliance. Upon receipt of notification of such compliance from the informing court, the division of vehicles shall terminate the suspension or suspension action.
- (2)(A) In lieu of suspension under paragraph (1), the driver may submit to the division of vehicles a written request for restricted driving privileges, with a non-refundable \$25 application fee, to be applied by the division of vehicles for additional administrative costs to implement restricted driving privileges. The division shall remit all restricted driving privilege application fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the division of vehicles operating fund.
- (B) Upon review and approval of the driver's eligibility, the driving privileges will be restricted by the division of vehicles for a period up to one year or until the terms of the traffic citation have been complied with and the court shall immediately electronically notify the division of vehicles of such compliance. If the driver fails to comply with the traffic citation within the one year restricted period, the driving privileges will be suspended by the division of vehicles until the court determines the person has complied with the terms of the traffic citation and the court shall immediately electronically notify the division of vehicles of such compliance. Upon receipt of notification of such compliance from the informing court, the division of vehicles shall terminate the suspension action. When restricted driving privileges are approved pursuant to this section, the person's driving privileges shall be restricted to driving only under the following circumstances:
- (i) In going to or returning from the person's place of employment or schooling;

- (ii) in the course of the person's employment;
 - (iii) during a medical emergency; *and*
 - (iv) in going to and returning from probation or parole meetings, drug or alcohol counseling or any place the person is required to go by a court. The provisions of this paragraph shall expire on January 1, 2012.
- (c) Except as provided in subsection (d), 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 \$59 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 and regardless of any application for restricted driving privileges. Such reinstatement fee shall be in addition to any fine, restricted driving privilege application fee, district or municipal court costs and other penalties. The court shall remit all reinstatement fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit 42.37% of such moneys to the division of vehicles operating fund, 31.78% to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, 10.59% to the juvenile detention facilities fund created by K.S.A. 79-4803, and amendments thereto, and 15.26% to the judicial branch nonjudicial salary adjustment fund created by K.S.A. 20-1a15, and amendments thereto.
- (d) The district court or municipal court shall waive the reinstatement fee provided for in subsection (c), if the failure to comply with a traffic citation was the result of such person enlisting in or being drafted into the armed services of the United States, being called into service as a member of a reserve component of the military service of the United States, or volunteering for such active duty, or being called into service as a member of the state of Kansas national guard, or volunteering for such active duty, and being absent from Kansas because of such military service. In any case of a failure to comply with a traffic citation which occurred on or after August 1, 1990, and prior to the effective date of this act, in which a person was assessed and paid a reinstatement fee and the person failed to comply with a traffic citation because the person was absent from Kansas because of any such military service, the reinstatement fee shall be reimbursed to such person upon application therefor. The state treasurer and the director of accounts and reports shall prescribe procedures for all such reimbursement payments and shall create appropriate accounts, make appropriate accounting entries and issue such appropriate vouchers and warrants as may be required to make such reimbursement payments.
- (e) Except as provided further, the reinstatement fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for such reinstatement. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after the effective date of this act through **June 30, 2012**, the supreme court may impose an additional charge, not to exceed \$22 per reinstatement fee, to fund the costs of non-judicial personnel.

8-2116 Classification of violations

(STO §201)

- (a) Every person convicted of violating any of the sections listed in the uniform fine schedule in K.S.A. 8-2118 is guilty of a traffic infraction.
- (b) Except where another penalty or class of misdemeanor is provided by statute, every person convicted of violating any provision of the uniform act regulating traffic on highways designated as a misdemeanor is guilty of a class C misdemeanor, except that upon a second such offense committed within one year after the date of the first such offense, upon conviction thereof, such person is guilty of a class B misdemeanor, and upon a third or subsequent such offense committed within one year after the first such offense, upon conviction thereof, such person is guilty of a class A misdemeanor.

8-2118 Uniform fine schedule for traffic infractions

(STO §204)

Amended 2011

- (a) A person charged with a traffic infraction shall, except as provided in subsection (b), appear at the place and time specified in the notice to appear. If the person enters an appearance, waives right to trial, pleads

guilty or no contest, the fine shall be no greater than that specified in the uniform fine schedule in subsection (c) and court costs shall be taxed as provided by law.

(b) Prior to the time specified in the notice to appear, a person charged with a traffic infraction may enter a written appearance, waive right to trial, plead guilty or no contest and pay the fine for the violation as specified in the uniform fine schedule in subsection (c) and court costs provided by law. Payment may be made **in any manner accepted by the court**. The traffic citation shall not have been complied with if **the payment** is not honored for any reason, or if the fine and court costs are not paid in full. When a person charged with a traffic infraction makes payment without executing a written waiver of right to trial and plea of guilty or no contest, the payment shall be deemed such an appearance, waiver of right to trial and plea of no contest.

(c) The following uniform fine schedule shall apply uniformly throughout the state but shall not limit the fine which may be imposed following a court appearance, except an appearance made for the purpose of pleading and payment as permitted by subsection (a). The description of offense contained in the following uniform fine schedule is for reference only and is not a legal definition.

Description of Offense	Statute	Fine
Refusal to submit to a preliminary breath test	8-1012	\$105
Unsafe speed for prevailing conditions	8-1557	\$75

Description of Offense	Statute	Fine
Exceeding maximum speed limit; or speeding in zone posted by the state department of transportation; or speeding in transportation ¹	8-1558 to 8-1560 8-1560a or 8-1560b	1-10 mph over the limit, \$45
		11-20 mph over the limit, \$45 plus \$6 per mph over 10 mph over the limit;
		21-30 mph over the limit, \$105 plus \$9 per mph over 20 mph over the limit;
		31 and more mph over the limit, \$195 plus \$15 per mph over 30 mph over the limit;

Description of Offense	Statute	Fine
Disobeying traffic control device	8-1507	\$75
Violating traffic control signal	8-1508	\$75
Violating pedestrian control signal	8-1509	\$45
Violating flashing traffic signals	8-1510	\$75
Violating lane-control signal	8-1511	\$75
Unauthorized sign, signal, marking or device	8-1512	\$45
Driving on left side of roadway	8-1514	\$75
Failure to keep right to pass oncoming vehicle	8-1515	\$75
Improper passing; increasing speed when passed	8-1516	\$75
Improper passing on right	8-1517	\$75
Passing on left with insufficient clearance	8-1518	\$75
Driving on left side where curve, grade, intersection railroad crossing, or obstructed view	8-1519	\$75
Driving on left in no-passing zone	8-1520	\$75
Unlawful passing of stopped emergency vehicle	8-1520a	\$75
Driving wrong direction on one-way road	8-1521	\$75
Improper driving on laned roadway	8-1522	\$75
Following too close	8-1523	\$75
Improper crossover on divided highway	8-1524	\$45
Failure to yield right-of-way at uncontrolled intersection	8-1526	\$75
Failure to yield to approaching vehicle when turning left	8-1527	\$75
Failure to yield at stop or yield sign	8-1528	\$75
Failure to yield from private road or driveway	8-1529	\$75
Failure to yield to emergency vehicle	8-1530	\$195
Failure to yield to pedestrian or vehicle working on roadway	8-1531	\$105
Failure to comply with restrictions in road construction zone	8-1531a	\$45
Disobeying pedestrian traffic control device	8-1532	\$45
Failure to yield to pedestrian in crosswalk; pedestrian suddenly entering roadway; passing vehicle stopped for pedestrian at crosswalk	8-1533	\$75
Improper pedestrian crossing	8-1534	\$45

Description of Offense	Statute	Fine
Failure to exercise due care in regard to pedestrian	8-1535	\$45
Improper pedestrian movement in crosswalk	8-1536	\$45
Improper use of roadway by pedestrian	8-1537	\$45
Soliciting ride or business on roadway	8-1538	\$45
Driving through safety zone	8-1539	\$45
Failure to yield to pedestrian on sidewalk	8-1540	\$45
Failure of pedestrian to yield to emergency vehicle	8-1541	\$45
Failure to yield to blind pedestrian	8-1542	\$45
Pedestrian disobeying bridge or railroad signal	8-1544	\$45
Improper turn or approach	8-1545	\$75
Improper "U" turn	8-1546	\$75
Unsafe starting of stopped vehicle	8-1547	\$45
Unsafe turning or stopping, failure to give proper signal; using turn signal unlawfully	8-1548	\$75
Improper method of giving notice of intention to turn	8-1549	\$45
Improper hand signal	8-1550	\$45
Failure to stop or obey railroad crossing signal	8-1551	\$195
Failure to stop at railroad crossing stop sign	8-1552	\$135
Certain hazardous vehicles failure to stop at railroad crossing	8-1553	\$195
Improper moving of heavy equipment at railroad crossing	8-1554	\$75
Vehicle emerging from alley, private roadway, building or driveway	8-1555	\$75
Improper passing of school bus; improper use of school bus signals	8-1556	\$315
Improper passing of church or day-care bus; improper use of signals	8-1556a	\$195
Impeding normal traffic by slow speed	8-1561	\$45
Speeding on motor-driven cycle	8-1562	\$75
Speeding in certain vehicles or on posted bridge	8-1563	\$45
Improper stopping, standing or parking on roadway	8-1569	\$45
Parking, standing or stopping in prohibited area	8-1571	\$45
Improper parking	8-1572	\$45
Unattended vehicle	8-1573	\$45
Improper backing	8-1574	\$45
Driving on sidewalk	8-1575	\$45
Driving with view or driving mechanism obstructed	8-1576	\$45
Unsafe opening of vehicle door	8-1577	\$45
Riding in house trailer	8-1578	\$45
<i>Unlawful riding on vehicle</i>	<i>8-1578a</i>	<i>\$75</i>
Improper driving in defiles, canyons, or on grades	8-1579	\$45
Coasting	8-1580	\$45
Following fire apparatus too closely	8-1581	\$75
Driving over fire hose	8-1582	\$45
Putting glass, etc., on highway	8-1583	\$105
Driving into intersection, crosswalk, or crossing without sufficient space on other side	8-1584	\$45
Improper operation of snowmobile on highway	8-1585	\$45
Parental responsibility of child riding bicycle	8-1586	\$45
Not riding on bicycle seat; too many persons on bicycle	8-1588	\$45
Clinging to other vehicle	8-1589	\$45
Improper riding of bicycle on roadway	8-1590	\$45
Carrying articles on bicycle; one hand on handlebars	8-1591	\$45
Improper bicycle lamps, brakes or reflectors	8-1592	\$45
Improper operation of motorcycle; seats; passengers, bundles	8-1594	\$45
Improper operation of motorcycle on laned roadway	8-1595	\$75
Motorcycle clinging to other vehicle	8-1596	\$45
Improper motorcycle handlebars or passenger equipment	8-1597	\$75
Motorcycle helmet and eye-protection requirements	8-1598	\$45
Unlawful operation of all-terrain vehicle	8-15,100	\$75
Unlawful operation of low-speed vehicle	8-15,101	\$75
Littering	8-15,102	\$115

Description of Offense	Statute	Fine
Disobeying school crossing guard	8-15,103	\$75
Unlawful operation of micro utility truck	8-15,106	\$75
Failure to remove vehicles in accidents	8-15,107	\$75
Unlawful operation of golf cart	8-15,108	\$75
Unlawful operation of work-site utility vehicle	8-15,109	\$75
<i>Unlawful display of license plate</i>	<i>8-15,110</i>	<i>\$60</i>
<i>Unlawful text messaging</i>	<i>8-15,111</i>	<i>\$60</i>
Equipment offenses that are not misdemeanors	8-1701	\$75
Driving without lights when needed	8-1703	\$45
Defective headlamps	8-1705	\$45
Defective tail lamps	8-1706	\$45
Defective reflector	8-1707	\$45
Improper stop lamp or turn signal	8-1708	\$45
Improper lighting equipment on certain vehicles	8-1710	\$45
Improper lamp color on certain vehicles	8-1711	\$45
Improper mounting of reflectors and lamps on certain vehicles	8-1712	\$45
Improper visibility of reflectors and lamps on certain vehicles	8-1713	\$45
No lamp or flag on projecting load	8-1715	\$75
Improper lamps on parked vehicle	8-1716	\$45
Improper lights, lamps, reflectors and emblems on farm tractors or slow-moving vehicles	8-1717	\$45
Improper lamps and equipment on implements of husbandry, road machinery or animal-drawn vehicles	8-1718	\$45
Unlawful use of spot, fog, or auxiliary lamp	8-1719	\$45
Improper lamps or lights on emergency vehicle	8-1720	\$45
Improper stop or turn signal	8-1721	\$45
Improper vehicular hazard warning lamp	8-1722	\$45
Unauthorized additional lighting equipment	8-1723	\$45
Improper multiple-beam lights	8-1724	\$45
Failure to dim headlights	8-1725	\$75
Improper single-beam headlights	8-1726	\$45
Improper speed with alternate lighting	8-1727	\$45
Improper number of driving lamps	8-1728	\$45
Unauthorized lights and signals	8-1729	\$45
Improper school bus lighting equipment and warning devices	8-1730	\$45
Unauthorized lights and devices on church or day-care bus	8-1730a	\$45
Improper lights on highway construction or maintenance vehicles	8-1731	\$45
Defective brakes	8-1734	\$45
Defective or improper use of horn or warning device	8-1738	\$45
Defective muffler	8-1739	\$45
Defective mirror	8-1740	\$45
Defective wipers; obstructed windshield or windows	8-1741	\$45
Improper tires	8-1742	\$45
Improper flares or warning devices	8-1744	\$45
Improper use of vehicular hazard warning lamps and devices	8-1745	\$45
Improper air-conditioning equipment	8-1747	\$45
Improper safety belt or shoulder harness	8-1749	\$45
Improper wide-based single tires	8-1742b	\$75
Improper compression release engine braking system	8-1761	\$75
Defective motorcycle headlamp	8-1801	\$45
Defective motorcycle tail lamp	8-1802	\$45
Defective motorcycle reflector	8-1803	\$45
Defective motorcycle stop lamps and turn signals	8-1804	\$45
Defective multiple-beam lighting	8-1805	\$45
Improper road-lighting equipment on motor-driven cycles	8-1806	\$45
Defective motorcycle or motor-driven cycle brakes	8-1807	\$45
Improper performance ability of brakes	8-1808	\$45

Description of Offense	Statute	Fine
Operating motorcycle with disapproved braking system	8-1809	\$45
Defective horn, muffler, mirrors or tires	8-1810	\$45
Unlawful statehouse parking	75-4510a	\$30

Description of Offense	Statute	Fine
	8-1909	Pounds Overweight
Exceeding gross weight of vehicle or combination	up to 1000	\$40
	1001 to 2000	3¢ per pound
	2001 to 5000	5¢ per pound
	5001 to 7500	7¢ per pound
	7501 and over	10¢ per pound
Exceeding gross weight on any axle or tandem, triple or quad axles	8-1908	Pounds Overweight
	up to 1000	\$40
	1001 to 2000	3¢ per pound
	2001 to 5000	5¢ per pound
	5001 to 7500	7¢ per pound
	7501 and over	10¢ per pound

Description of Offense	Statute	Fine
Failure to obtain proper registration, clearance or to have current certification	66-1324	\$287
Insufficient liability insurance for motor carriers	66-1,128 or 66-1314	\$137
Failure to obtain interstate motor fuel tax authorization	79-34,122	\$137
No authority as private or common carrier	66-1,111	\$137
Violation of motor carrier safety rules and regulations, except for violations specified in subsection (b)(2) of K.S.A. 66-1,130, and amendments thereto	66-1,129	\$115

(d) Traffic offenses classified as traffic infractions by this section shall be classified as ordinance traffic infractions by those cities adopting ordinances prohibiting the same offenses. A schedule of fines for all ordinance traffic infractions shall be established by the municipal judge in the manner prescribed by K.S.A. 12-4305, and amendments thereto. Such fines may vary from those contained in the uniform fine schedule contained in subsection (c).

(e) Fines listed in the uniform fine schedule contained in subsection (c) shall be doubled if a person is convicted of a traffic infraction, which is defined as a moving violation in accordance with rules and regulations adopted pursuant to K.S.A. 8-249, and amendments thereto, committed within any road construction zone as defined in K.S.A. 8-1458a, and amendments thereto.

(f) For a second violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years after a prior conviction of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined 1½ times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c). For a third violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years, after two prior convictions of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined two times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c). For a fourth and each succeeding violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years after three prior convictions of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined 2½ times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c).

(g) Fines listed in the uniform fine schedule contained in subsection (c) relating to exceeding the maximum speed limit, shall be doubled if a person is convicted of exceeding the maximum speed limit in a school zone authorized under subsection (a)(4) of K.S.A. 8-1560, and amendments thereto.

1Note: So in Kansas Laws 2010 Ch 145 §1. Legislative intent may have been “locally posted zone” as stated in 2010 Ch 151 §3.

8-2502 Passenger car—Defined

As used in this act, “passenger car” means a motor vehicle, manufactured or assembled after January 1, 1968, or a motor vehicle manufactured or assembled prior to 1968 which was manufactured or assembled with safety belts, with motive power designed for carrying 10 passengers or fewer, including vans, but does not include a motorcycle or a motor-driven cycle.

8-2503 Wearing of seat belt required

(STO §182.1)

Amended 2011

(a) Except as provided in *subsection (b)*:

(1) Each occupant of a passenger car manufactured with safety belts in compliance with federal motor vehicle safety standard no. 208, who is 18 years of age or older, shall have a safety belt properly fastened about such person’s body at all times when the passenger car is in motion; **and**

(2) each occupant of a passenger car manufactured with safety belts in compliance with federal motor vehicle safety standard no. 208, who is at least 14 years of age but less than 18 years of age, shall have a safety belt properly fastened about such person’s body at all times when the passenger car is in motion.

(b) This section does not apply to:

(1) An occupant of a passenger car who possesses a written statement from a licensed physician that such person is unable for medical reasons to wear a safety belt system;

(2) carriers of United States mail while actually engaged in delivery and collection of mail along their specified routes; **or**

(3) newspaper delivery persons while actually engaged in delivery of newspapers along their specified routes.

(c) The secretary of transportation shall initiate an educational program designed to encourage compliance with the safety belt usage provisions of this act.

(d) The secretary shall evaluate the effectiveness of this act and shall include a report of its findings in the annual evaluation report on its highway safety plan that it submits under 23 U.S.C. §402.

(e) Law enforcement officers shall not stop drivers for violations of *subsection (a)(1)* by a back seat occupant in the absence of another violation of law. A citation for violation of *subsection (a)(1)* by a back seat occupant shall not be issued without citing the violation that initially caused the officer to effect the enforcement stop.

Chapter 21
Art. 51 thru 56

21-5111 Definitions—General

(UPOC §1.1)

Amended 2011

The following definitions shall apply when the words and phrases defined are used in this code, except when a particular context clearly requires a different meaning.

- (a) “Act” includes a failure or omission to take action.
- (b) “Another” means a person or persons as defined in this code other than the person whose act is claimed to be criminal.
- (c) “Conduct” means an act or a series of acts, and the accompanying mental state.
- (d) “Conviction” includes a judgment of guilt entered upon a plea of guilty.
- (e) “Deception” means knowingly creating or reinforcing a false impression, including false impressions as to law, value, intention or other state of mind. Deception as to a person’s intention to perform a promise shall not be inferred from the fact alone that such person did not subsequently perform the promise. Falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive reasonable persons, is not deception.
- (f) “Deprive permanently” means to:
 - (1) Take from the owner the possession, use or benefit of property, without an intent to restore the same;
 - (2) retain property without intent to restore the same or with intent to restore it to the owner only if the owner purchases or leases it back, or pays a reward or other compensation for its return; or
 - (3) sell, give, pledge or otherwise dispose of any interest in property or subject it to the claim of a person other than the owner.
- (g) “Distribute” means the actual or constructive transfer from one person to another of some item whether or not there is an agency relationship. “Distribute” includes, but is not limited to, sale, offer for sale, furnishing, buying for, delivering, giving, or any act that causes or is intended to cause some item to be transferred from one person to another. “Distribute” does not include acts of administering, dispensing or prescribing a controlled substance as authorized by the pharmacy act of the state of Kansas, the uniform controlled substances act, or otherwise authorized by law.
- (h) “DNA” means deoxyribonucleic acid.
- (i) ***“Domestic violence” means an act or threatened act of violence against a person with whom the offender is involved or has been involved in a dating relationship, or an act or threatened act of violence against a family or household member by a family or household member. Domestic violence also includes any other crime committed against a person or against property, or any municipal ordinance violation against a person or against property, when directed against a person with whom the offender is involved or has been involved in a dating relationship or when directed against a family or household member by a family or household member. For the purposes of this definition:***
 - (1) ***“Dating relationship” means a social relationship of a romantic nature. In addition to any other factors the court deems relevant, the trier of fact may consider the following when making a determination of whether a relationship exists or existed: Nature of the relationship, length of time the relationship existed, frequency of interaction between the parties and time since termination of the relationship, if applicable.***
 - (2) ***“Family or household member” means persons 18 years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren, and persons who are presently residing together or have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time. Family or household member also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time.***
- (j) ***“Domestic violence offense” means any crime committed whereby the underlying factual basis includes an act of domestic violence.***

- (k)** “Dwelling” means a building or portion thereof, a tent, a vehicle or other enclosed space which is used or intended for use as a human habitation, home or residence.
- (l)** “Expungement” means the sealing of records such that the records are unavailable except to the petitioner and criminal justice agencies as provided by K.S.A. 22-4701 et seq., and amendments thereto, and except as provided in this act.
- (m)** “Firearm” means any weapon designed or having the capacity to propel a projectile by force of an explosion or combustion.
- (n)** “Forcible felony” includes any treason, murder, voluntary manslaughter, rape, robbery, burglary, arson, kidnapping, aggravated battery, aggravated sodomy and any other felony which involves the use or threat of physical force or violence against any person.
- (o)** “Intent to defraud” means an intention to deceive another person, and to induce such other person, in reliance upon such deception, to assume, create, transfer, alter or terminate a right, obligation or power with reference to property.
- (p)** “Law enforcement officer” means:
- (1) Any person who by virtue of such person’s office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes;
 - (2) any officer of the Kansas department of corrections or, for the purposes of K.S.A. 21-5412 and subsection (d) of K.S.A. 21-5413, and amendments thereto, any employee of the Kansas department of corrections; or
 - (3) any university police officer or campus police officer, as defined in K.S.A. 22-2401a, and amendments thereto.
- (q)** “Obtain” means to bring about a transfer of interest in or possession of property, whether to the offender or to another.
- (r)** “Obtains or exerts control” over property includes, but is not limited to, the taking, carrying away, sale, conveyance, transfer of title to, interest in, or possession of property.
- (s)** “Owner” means a person who has any interest in property.
- (t)** “Person” means an individual, public or private corporation, government, partnership, or unincorporated association.
- (u)** “Personal property” means goods, chattels, effects, evidences of rights in action and all written instruments by which any pecuniary obligation, or any right or title to property real or personal, shall be created, acknowledged, assigned, transferred, increased, defeated, discharged, or dismissed.
- (v)** “Possession” means having joint or exclusive control over an item with knowledge of or intent to have such control or knowingly keeping some item in a place where the person has some measure of access and right of control.
- (w)** “Property” means anything of value, tangible or intangible, real or personal.
- (x)** “Prosecution” means all legal proceedings by which a person’s liability for a crime is determined.
- (y)** “Prosecutor” means the same as prosecuting attorney in K.S.A. 22-2202, and amendments thereto.
- (z)** “Public employee” is a person employed by or acting for the state or by or for a county, municipality or other subdivision or governmental instrumentality of the state for the purpose of exercising their respective powers and performing their respective duties, and who is not a “public officer.”
- (aa)** “Public officer” includes the following, whether elected or appointed:
- (1) An executive or administrative officer of the state, or a county, municipality or other subdivision or governmental instrumentality of or within the state;
 - (2) a member of the legislature or of a governing board of a county, municipality, or other subdivision of or within the state;
 - (3) a judicial officer, which shall include a judge of the district court, juror, master or any other person appointed by a judge or court to hear or determine a cause or controversy;
 - (4) a hearing officer, which shall include any person authorized by law or private agreement, to hear or determine a cause or controversy and who is not a judicial officer;

- (5) a law enforcement officer; and
- (6) any other person exercising the functions of a public officer under color of right.
- (bb)** “Real property” or “real estate” means every estate, interest, and right in lands, tenements and hereditaments.
- (cc)** “Solicit” or “solicitation” means to command, authorize, urge, incite, request or advise another to commit a crime.
- (dd)** “State” or “this state” means the state of Kansas and all land and water in respect to which the state of Kansas has either exclusive or concurrent jurisdiction, and the air space above such land and water. “Other state” means any state or territory of the United States, the District of Columbia and the Commonwealth of Puerto Rico.
- (ee)** “Stolen property” means property over which control has been obtained by theft.
- (ff)** “Threat” means a communicated intent to inflict physical or other harm on any person or on property.
- (gg)** “Written instrument” means any paper, document or other instrument containing written or printed matter or the equivalent thereof, used for purposes of reciting, embodying, conveying or recording information, and any money, token, stamp, seal, badge, trademark, or other evidence or symbol of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person.
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21-5202 Culpable mental state; definitions of intentionally, knowingly, recklessly

- (a) Except as otherwise provided, a culpable mental state is an essential element of every crime defined by this code. A culpable mental state may be established by proof that the conduct of the accused person was committed “intentionally,” “knowingly” or “recklessly.”
- (b) Culpable mental states are classified according to relative degrees, from highest to lowest, as follows:
- (1) Intentionally;
 - (2) knowingly;
 - (3) recklessly.
- (c) Proof of a higher degree of culpability than that charged constitutes proof of the culpability charged. If recklessness suffices to establish an element, that element also is established if a person acts knowingly or intentionally. If acting knowingly suffices to establish an element, that element also is established if a person acts intentionally.
- (d) If the definition of a crime does not prescribe a culpable mental state, a culpable mental state is nevertheless required unless the definition plainly dispenses with any mental element.
- (e) If the definition of a crime does not prescribe a culpable mental state, but one is nevertheless required under subsection (d), “intent,” “knowledge” or “recklessness” suffices to establish criminal responsibility.
- (f) If the definition of a crime prescribes a culpable mental state that is sufficient for the commission of a crime, without distinguishing among the material elements thereof, such provision shall apply to all the material elements of the crime, unless a contrary purpose plainly appears.
- (g) If the definition of a crime prescribes a culpable mental state with regard to a particular element or elements of that crime, the prescribed culpable mental state shall be required only as to specified element or elements, and a culpable mental state shall not be required as to any other element of the crime unless otherwise provided.
- (h) A person acts “intentionally,” or “with intent,” with respect to the nature of such person’s conduct or to a result of such person’s conduct when it is such person’s conscious objective or desire to engage in the conduct or cause the result. All crimes defined in this code in which the mental culpability requirement is expressed as “intentionally” or “with intent” are specific intent crimes. A crime may provide that any other culpability requirement is a specific intent.
- (i) A person acts “knowingly,” or “with knowledge,” with respect to the nature of such person’s conduct or to circumstances surrounding such person’s conduct when such person is aware of the nature of such person’s conduct or that the circumstances exist. A person acts “knowingly,” or “with knowledge,” with respect to a result of such person’s conduct when such person is aware that such person’s conduct is reasonably certain to cause the result. All crimes defined in this code in which the mental culpability requirement is expressed as “knowingly,” “known,” or “with knowledge” are general intent crimes.

(j) A person acts “recklessly” or is “reckless”, when such person consciously disregards a substantial and unjustifiable risk that circumstances exist or that a result will follow, and such disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation.

21-5203 Guilt without culpable mental state, when

Amended 2011

A person may be guilty of a crime without having a culpable mental state if the crime is:

- (a) A misdemeanor, cigarette or tobacco infraction or traffic infraction and the statute defining the crime clearly indicates a legislative purpose to impose absolute liability for the conduct described;
 - (b) a felony and the statute defining the crime clearly indicates a legislative purpose to impose absolute liability for the conduct described;
 - (c) a violation of K.S.A. 8-1567 or 8-1567a, and amendments thereto;
 - (d) a violation of K.S.A. 8-2,144, and amendments thereto; or**
 - (e) a violation of K.S.A. 22-4901 et seq., and amendments thereto.
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21-5204 Culpable mental state—Exclusions

Proof of a culpable mental state does not require proof:

- (a) Of knowledge of the existence or constitutionality of the statute under which the accused is prosecuted, or the scope or meaning of the terms used in that statute; or
 - (b) that the accused had knowledge of the age of a minor, even though age is a material element of the crime with which the accused is charged.
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21-5205 Intoxication

- (a) The fact that a person charged with a crime was in an intoxicated condition at the time the alleged crime was committed is a defense only if such condition was involuntarily produced and rendered such person substantially incapable of knowing or understanding the wrongfulness of such person’s conduct and of conforming such person’s conduct to the requirements of law.
 - (b) An act committed while in a state of voluntary intoxication is not less criminal by reason thereof, but when a particular intent or other state of mind is a necessary element to constitute a particular crime, the fact of intoxication may be taken into consideration in determining such intent or state of mind.
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21-5206 Compulsion

- (a) A person is not guilty of a crime other than murder or voluntary manslaughter by reason of conduct which such person performs under the compulsion or threat of the imminent infliction of death or great bodily harm, if such person reasonably believes that death or great bodily harm will be inflicted upon such person or upon such person’s spouse, parent, child, brother or sister if such person does not perform such conduct.
 - (b) The defense provided by this section is not available to a person who intentionally or recklessly places such person’s self in a situation in which such person will be subjected to compulsion or threat.
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21-5207 Ignorance or mistake

- (a) A person’s ignorance or mistake as to a matter of either fact or law, except as provided in K.S.A. 21-5204, and amendments thereto, is a defense if it negates the existence of the culpable mental state which the statute prescribes with respect to an element of the crime.
- (b) A person’s reasonable belief that such person’s conduct does not constitute a crime is a defense if:
 - (1) The crime is defined by an administrative regulation or order which is not known to such person and has not been published in the Kansas administrative regulations or an annual supplement thereto, as provided by law; and such person could not have acquired such knowledge by the exercise of due diligence pursuant to facts known to such person;
 - (2) such person acts in reliance upon a statute which later is determined to be invalid;
 - (3) such person acts in reliance upon an order or opinion of the supreme court of Kansas or a United States appellate court later overruled or reversed; or
 - (4) such person acts in reliance upon an official interpretation of the statute, regulation or order defining the crime made by a public officer or agency legally authorized to interpret such statute.

(c) Although a person's ignorance or mistake of fact or law, or reasonable belief, as described in subsection (b), is a defense to the crime charged, such person may be convicted of an included crime of which such person would be guilty if the fact or law were as such person believed it to be.

21-5208 Entrapment

A person is not guilty of a crime if such person's criminal conduct was induced or solicited by a public officer or such officer's agent for the purposes of obtaining evidence to prosecute such person, unless:

- (a) The public officer or such officer's agent merely afforded an opportunity or facility for committing the crime in furtherance of a criminal purpose originated by such person or a co-conspirator; or
 - (b) The crime was of a type which is likely to occur and recur in the course of such person's business, and the public officer or such officer's agent in doing the inducing or soliciting did not mislead such person into believing such person's conduct to be lawful.
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21-5210 Liability for crimes of another **(UPOC §1.2)**

(a) A person is criminally responsible for a crime committed by another if such person, acting with the mental culpability required for the commission thereof, advises, hires, counsels or procures the other to commit the crime or intentionally aids the other in committing the conduct constituting the crime.

(b) A person liable under subsection (a) is also liable for any other crime committed in pursuance of the intended crime if reasonably foreseeable by such person as a probable consequence of committing or attempting to commit the crime intended.

(c) A person liable under this section may be charged with and convicted of the crime although the person alleged to have directly committed the act constituting the crime:

- (1) Lacked criminal or legal capacity;
 - (2) has not been convicted;
 - (3) has been acquitted; or
 - (4) has been convicted of some other degree of the crime or of some other crime based on the same act.
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21-5221 Use of force; definitions

Amended 2011

(a) As used in article 32 of chapter 21 of the Kansas Statutes Annotated, *prior to their repeal, K.S.A. 21-5202 through 21-5212, and K.S.A. 21-5220 through 21-5231*, and amendments thereto:

(1) "Use of force" means any or all of the following directed at or upon another person or thing: (A) Words or actions that reasonably convey the threat of force, including threats to cause death or great bodily harm to a person; (B) the presentation or display of the means of force; or (C) the application of physical force, including by a weapon or through the actions of another.

(2) "Use of deadly force" means the application of any physical force described in paragraph (1) which is likely to cause death or great bodily harm to a person. Any threat to cause death or great bodily harm, including, but not limited to, by the display or production of a weapon, shall not constitute use of deadly force, so long as the actor's purpose is limited to creating an apprehension that the actor will, if necessary, use deadly force in defense of such actor or another or to affect a lawful arrest.

(b) An actor who threatens deadly force as described in subsection (a)(1) shall be subject to the determination in subsection (a) of K.S.A. 21-3211, *prior to its repeal, or subsection (a) of K.S.A. 21-5222*, and amendments thereto, and not to the determination in subsection (b) of K.S.A. 21-3211, *prior to its repeal, or subsection (b) of K.S.A. 21-5222*, and amendments thereto.

21-5222 Use of force in defense of a person; no duty to retreat

Amended 2011

(a) A person is justified in the use of force against another when and to the extent it appears to such person and such person reasonably believes that such *use of* force is necessary to defend such person or a third person against such other's imminent use of unlawful force.

- (b) A person is justified in the use of deadly force under circumstances described in subsection (a) if such person reasonably believes ***that such use of*** deadly force is necessary to prevent imminent death or great bodily harm to such person or a third person.
- (c) Nothing in this section shall require a person to retreat if such person is using force to protect such person or a third person.

21-5223 Use of force in defense of dwelling; no duty to retreat

Amended 2011

- (a) A person is justified in the use of force against another when and to the extent that it appears to such person and such person reasonably believes that such ***use of*** force is necessary to prevent or terminate such other's unlawful entry into or attack upon such person's dwelling, ***place of work*** or occupied vehicle.
- (b) A person is justified in the use of deadly force to prevent or terminate unlawful entry into or attack upon any dwelling, ***place of work*** or occupied vehicle if such person reasonably believes ***that such use of*** deadly force is necessary to prevent imminent death or great bodily harm to such person or another.
- (c) Nothing in this section shall require a person to retreat if such person is using force to protect such person's dwelling, ***place of work*** or occupied vehicle.

21-5224 Use of force; presumptions

Amended 2011

- (a) For the purposes of K.S.A. 21-3211 and 21-3212, ***prior to their repeal, or K.S.A. 21-5222 and 21-5223,*** and amendments thereto, a person is presumed to have a reasonable belief that deadly force is necessary to prevent imminent death or great bodily harm to such person or another person if:
- (1) The person against whom the force is used, at the time the force is used:
 - (A) Is unlawfully or forcefully entering, or has unlawfully or forcefully entered, and is present within, the dwelling, place of work or occupied vehicle of the person using force; or
 - (B) has removed or is attempting to remove another person against such other person's will from the dwelling, place of work or occupied vehicle of the person using force; and
 - (2) the person using force knows or has reason to believe that any of the conditions set forth in paragraph (1) is occurring or has occurred.
- (b) The presumption set forth in subsection (a) does not apply if, at the time the force is used:
- (1) The person against whom the force is used has a right to be in, or is a lawful resident of, the dwelling, place of work or occupied vehicle of the person using force, and is not subject to any order listed in K.S.A. 21-3843, ***prior to its repeal, or K.S.A. 21-5924,*** and amendments thereto, that would prohibit such person's presence in the property;
 - (2) the person sought to be removed is a child, grandchild or is otherwise in the lawful custody or under the lawful guardianship of the person against whom the force is used;
 - (3) the person using force is engaged in the commission of a crime, attempting to escape from a location where a crime has been committed, or is using the dwelling, place of work or occupied vehicle to further the commission of a crime; or
 - (4) the person against whom the force is used is a law enforcement officer who has entered or is attempting to enter a dwelling, place of work or occupied vehicle in the lawful performance of such officer's lawful duties, and the person using force knows or reasonably should know that the person who has entered or is attempting to enter is a law enforcement officer.

21-5225 Use of force; defense of property other than a dwelling

Amended 2011

A person who is lawfully in possession of property other than a dwelling, ***place of work*** or occupied vehicle is justified in the use of force against another for the purpose of preventing or terminating an unlawful interference with such property. Only such ***use*** of force as a reasonable person would deem necessary to prevent or terminate the interference may intentionally be used.

21-5226 Use of force by an aggressor

Amended 2011

The justification described in *K.S.A. 21-3211, 21-3212 and 21-3213, prior to their repeal, or K.S.A. 21-5222, 21-5223 and 21-5225*, and amendments thereto, is not available to a person who:

- (a) Is attempting to commit, committing or escaping from the commission of a forcible felony;
- (b) initially provokes the use of **any** force against such person or another, with intent to use such force as an excuse to inflict bodily harm upon the assailant; or
- (c) otherwise initially provokes the use of **any** force against such person or another, unless:
 - (1) Such person has reasonable **grounds** to believe that such person is in imminent danger of death or great bodily harm, and has exhausted every reasonable means to escape such danger other than the use of **deadly** force; or
 - (2) in good faith, such person withdraws from physical contact with the assailant and indicates clearly to the assailant that such person desires to withdraw and terminate the use of **such** force, but the assailant continues or resumes the use of **such** force.

21-5227 Use of force; law enforcement officer making arrest

Amended 2011

- (a) A law enforcement officer, or any person whom such officer has summoned or directed to assist in making a lawful arrest, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. Such officer is justified in the use of any force which such officer reasonably believes to be necessary to effect the arrest and **the use** of any force which such officer reasonably believes to be necessary to defend the officer's self or another from bodily harm while making the arrest. However, such officer is justified in using **deadly** force only when such officer reasonably believes that such force is necessary to prevent death or great bodily harm to such officer or another person, or when such officer reasonably believes that such force is necessary to prevent the arrest from being defeated by resistance or escape and such officer has probable cause to believe that the person to be arrested has committed or attempted to commit a felony involving **death or** great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that such person will endanger human life or inflict great bodily harm unless arrested without delay.
- (b) A law enforcement officer making an arrest pursuant to an invalid warrant is justified in the use of any force which such officer would be justified in using if the warrant were valid, unless such officer knows that the warrant is invalid.

21-5228 Private person's use of force in making arrest

Amended 2011

- (a) A private person who makes, or assists another private person in making a lawful arrest is justified in the use of any force which such person would be justified in using if such person were summoned or directed by a law enforcement officer to make such arrest, except that such person is justified in the use of **deadly** force only when such person reasonably believes that such force is necessary to prevent death or great bodily harm to such person or another.
- (b) A private person who is summoned or directed by a law enforcement officer to assist in making an arrest which is unlawful, is justified in the use of any force which such person would be justified in using if the arrest were lawful.

21-5229 Use of force; resisting arrest

A person is not authorized to use force to resist an arrest which such person knows is being made either by a law enforcement officer or by a private person summoned and directed by a law enforcement officer to make the arrest, even if the person arrested believes that the arrest is unlawful.

21-5230 Use of force; no duty to retreat; exceptions

Amended 2011

A person who is not engaged in an unlawful activity and who is attacked in a place where such person has a right to be has no duty to retreat and has the right to stand such person's ground and **use any force which**

such person would be justified in using under article 32 of chapter 21 of the Kansas Statute Annotated, prior to their repeal, or K.S.A. 21-5202 through 21-5212, and K.S.A. 21-5220 through 21-5231, and amendments thereto.

21-5231 Use of force; immunity from prosecution or liability

- (a) A person who uses force which, subject to the provisions of K.S.A. 21-5226, and amendments thereto, is justified pursuant to K.S.A. 21-5222, 21-5223 or 21-5225, and amendments thereto, is immune from criminal prosecution and civil action for the use of such force, unless the person against whom force was used is a law enforcement officer who was acting in the performance of such officer's official duties and the officer identified the officer's self in accordance with any applicable law or the person using force knew or reasonably should have known that the person was a law enforcement officer. As used in this subsection, "criminal prosecution" includes arrest, detention in custody and charging or prosecution of the defendant.
- (b) A law enforcement agency may use standard procedures for investigating the use of force as described in subsection (a), but the agency shall not arrest the person for using force unless it determines that there is probable cause for the arrest.
- (c) A prosecutor may commence a criminal prosecution upon a determination of probable cause.
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21-5301 Attempt (UPOC §2.1)

Amended 2011

- (a) An attempt is any overt act toward the perpetration of a crime done by a person who intends to commit such crime but fails in the perpetration thereof or is prevented or intercepted in executing such crime.
- (b) It shall not be a defense to a charge of attempt that the circumstances under which the act was performed or the means employed or the act itself were such that the commission of the crime was not possible.
- (c)(1) An attempt to commit an off-grid felony shall be ranked at nondrug severity level 1. An attempt to commit any other nondrug felony shall be ranked on the nondrug scale at two severity levels below the appropriate level for the underlying or completed crime. The lowest severity level for an attempt to commit a nondrug felony shall be a severity level 10.
- (2) The provisions of this subsection shall not apply to a violation of attempting to commit the crime of:
- (A) **Aggravated human trafficking, as defined in subsection (b) of K.S.A. 21-5426, and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age;**
 - (B) **terrorism as defined in K.S.A. 21-5421, and amendments thereto;**
 - (C) **illegal use of weapons of mass destruction as defined in K.S.A. 21-5422, and amendments thereto;**
 - (D) **rape, as defined in subsection (a)(3) of K.S.A. 21-5503, and amendments thereto, if the offender is 18 years of age or older;**
 - (E) **aggravated indecent liberties with a child, as defined in subsection (b)(3) of K.S.A. 21-5506, and amendments thereto, if the offender is 18 years of age or older;**
 - (F) **aggravated criminal sodomy, as defined in subsection (b)(1) or (b)(2) of K.S.A. 21-5504, and amendments thereto, if the offender is 18 years of age or older;**
 - (G) **promoting prostitution, as defined in K.S.A. 21-6420, and amendments thereto, if the offender is 18 years of age or older and the prostitute is less than 14 years of age;** or
 - (H) **sexual exploitation of a child, as defined in subsection (a)(1) or (a)(4) of K.S.A. 21-5510, and amendments thereto, if the offender is 18 years of age or older and the child is less than 14 years of age.**
- (d)(1) An attempt to commit a felony which prescribes a sentence on the drug grid shall reduce the prison term prescribed in the drug grid block for an underlying or completed crime by six months.
- (2) **The provisions of this subsection shall not apply to a violation of attempting to commit a violation of K.S.A. 21-5703, and amendments thereto.**
- (e) An attempt to commit a class A person misdemeanor is a class B person misdemeanor. An attempt to commit a class A nonperson misdemeanor is a class B nonperson misdemeanor.
- (f) An attempt to commit a class B or C misdemeanor is a class C misdemeanor.

21-5302 Conspiracy

(UPOC §2.2)

Amended 2011

- (a) A conspiracy is an agreement with another person to commit a crime or to assist in committing a crime. No person may be convicted of a conspiracy unless an overt act in furtherance of such conspiracy is alleged and proved to have been committed by such person or by a co-conspirator.
- (b) It shall be a defense to a charge of conspiracy that the accused voluntarily and in good faith withdrew from the conspiracy, and communicated the fact of such withdrawal to one or more of the accused person's co-conspirators, before any overt act in furtherance of the conspiracy was committed by the accused or by a co-conspirator.
- (c)(1) Conspiracy to commit an off-grid felony shall be ranked at nondrug severity level 2. Conspiracy to commit any other nondrug felony shall be ranked on the nondrug scale at two severity levels below the appropriate level for the underlying or completed crime. The lowest severity level for conspiracy to commit a nondrug felony shall be a severity level 10.
- (2) The provisions of this subsection shall not apply to a violation of conspiracy to commit the crime of:
- (A) *Aggravated human trafficking, as defined in subsection (b) of K.S.A. 21-5426, and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age;*
 - (B) *terrorism as defined in K.S.A. 21-5421, and amendments thereto;*
 - (C) *illegal use of weapons of mass destruction pursuant to as defined in K.S.A. 21-5422, and amendments thereto;*
 - (D) *rape, as defined in subsection (a)(3) of K.S.A. 21-5503, and amendments thereto, if the offender is 18 years of age or older;*
 - (E) *aggravated indecent liberties with a child, as defined in subsection (b)(3) of K.S.A. 21-5506, and amendments thereto, if the offender is 18 years of age or older;*
 - (F) *aggravated criminal sodomy, as defined in subsection (b)(1) or (b)(2) of K.S.A. 21-5504, and amendments thereto, if the offender is 18 years of age or older;*
 - (G) *promoting prostitution, as defined in K.S.A. 21-6420, and amendments thereto, if the offender is 18 years of age or older and the prostitute is less than 14 years of age; or*
 - (H) *sexual exploitation of a child, as defined in subsection (a)(1) or (a)(4) of K.S.A. 21-5510, and amendments thereto, if the offender is 18 years of age or older and the child is less than 14 years of age.*
- (d) Conspiracy to commit a felony which prescribes a sentence on the drug grid shall reduce the prison term prescribed in the drug grid block for an underlying or completed crime by six months.
- (e) A conspiracy to commit a misdemeanor is a class C misdemeanor.

21-5303 Criminal solicitation

Amended 2011

- (a) Criminal solicitation is commanding, encouraging or requesting another person to commit a felony, attempt to commit a felony or aid and abet in the commission or attempted commission of a felony for the purpose of promoting or facilitating the felony.
- (b) It is immaterial under subsection (a) that the actor fails to communicate with the person solicited to commit a felony if the person's conduct was designed to effect a communication.
- (c) It is an affirmative defense that the actor, after soliciting another person to commit a felony, persuaded that person not to do so or otherwise prevented the commission of the felony, under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purposes.
- (d)(1) Criminal solicitation to commit an off-grid felony shall be ranked at nondrug severity level 3. Criminal solicitation to commit any other nondrug felony shall be ranked on the nondrug scale at three severity levels below the appropriate level for the underlying or completed crime. The lowest severity level for criminal solicitation to commit a nondrug felony shall be a severity level 10.
- (2) The provisions of this subsection shall not apply to a violation of criminal solicitation to commit the crime of:

- (A) Aggravated human trafficking, as defined in subsection (b) of K.S.A. 21-5426, and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age;*
 - (B) terrorism as defined in K.S.A. 21-5421, and amendments thereto;*
 - (C) illegal use of weapons of mass destruction as defined in K.S.A. 21-5422, and amendments thereto;*
 - (D) rape, as defined in subsection (a)(3) of K.S.A. 21-5503, and amendments thereto, if the offender is 18 years of age or older;*
 - (E) aggravated indecent liberties with a child, as defined in subsection (b)(3) of K.S.A. 21-5506, and amendments thereto, if the offender is 18 years of age or older;*
 - (F) aggravated criminal sodomy, as defined in subsection (b)(1) or (b)(2) of K.S.A. 21-5504, and amendments thereto, if the offender is 18 years of age or older;*
 - (G) promoting prostitution, as defined in K.S.A. 21-6420, and amendments thereto, if the offender is 18 years of age or older and the prostitute is less than 14 years of age; or*
 - (H) sexual exploitation of a child, as defined in subsection (a)(1) or (a)(4) of K.S.A. 21-5510, and amendments thereto, if the offender is 18 years of age or older and the child is less than 14 years of age.*
- (e) Criminal solicitation to commit a felony which prescribes a sentence on the drug grid shall reduce the prison term prescribed in the drug grid block for an underlying or completed crime by six months.
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21-5401 Capital murder

- (a) Capital murder is the:
- (1) Intentional and premeditated killing of any person in the commission of kidnapping, as defined in subsection (a) of K.S.A. 21-5408, and amendments thereto, or aggravated kidnapping, as defined in subsection (b) of K.S.A. 21-5408, and amendments thereto, when the kidnapping or aggravated kidnapping was committed with the intent to hold such person for ransom;
 - (2) intentional and premeditated killing of any person pursuant to a contract or agreement to kill such person or being a party to the contract or agreement pursuant to which such person is killed;
 - (3) intentional and premeditated killing of any person by an inmate or prisoner confined in a state correctional institution, community correctional institution or jail or while in the custody of an officer or employee of a state correctional institution, community correctional institution or jail;
 - (4) intentional and premeditated killing of the victim of one of the following crimes in the commission of, or subsequent to, such crime: Rape, as defined in K.S.A. 21-5503, and amendments thereto, criminal sodomy, as defined in subsections (a)(3) or (a)(4) of K.S.A. 21-5504, and amendments thereto, or aggravated criminal sodomy, as defined in subsection (b) of K.S.A. 21-5504, and amendments thereto, or any attempt thereof, as defined in K.S.A. 21-5301, and amendments thereto;
 - (5) intentional and premeditated killing of a law enforcement officer;
 - (6) intentional and premeditated killing of more than one person as a part of the same act or transaction or in two or more acts or transactions connected together or constituting parts of a common scheme or course of conduct; or
 - (7) intentional and premeditated killing of a child under the age of 14 in the commission of kidnapping, as defined in subsection (a) of K.S.A. 21-5408, and amendments thereto, or aggravated kidnapping, as defined in subsection (b) of K.S.A. 21-5408, and amendments thereto, when the kidnapping or aggravated kidnapping was committed with intent to commit a sex offense upon or with the child or with intent that the child commit or submit to a sex offense.
- (b) For purposes of this section, “sex offense” means rape, as defined in K.S.A. 21-5503, and amendments thereto, aggravated indecent liberties with a child, as defined in subsection (b) of K.S.A. 21-5506, and amendments thereto, aggravated criminal sodomy, as defined in subsection (b) of K.S.A. 21-5504, and amendments thereto, prostitution, as defined in K.S.A. 21-6419, and amendments thereto, promoting prostitution, as defined in K.S.A. 21-6420, and amendments thereto, or sexual exploitation of a child, as defined in K.S.A. 21-5510, and amendments thereto.
- (c) Capital murder is an off-grid person felony.
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21-5402 Murder in the first degree; inherently dangerous felony

- (a) Murder in the first degree is the killing of a human being committed:

- (1) Intentionally, and with premeditation; or
- (2) in the commission of, attempt to commit, or flight from any inherently dangerous felony.
- (b) Murder in the first degree is an off-grid person felony.
- (c) As used in this section, an “inherently dangerous felony” means:
 - (1) Any of the following felonies, whether such felony is so distinct from the homicide alleged to be a violation of subsection (a)(2) as not to be an ingredient of the homicide alleged to be a violation of subsection (a)(2):
 - (A) Kidnapping, as defined in subsection (a) of K.S.A. 21-5408, and amendments thereto;
 - (B) aggravated kidnapping, as defined in subsection (b) of K.S.A. 21-5408, and amendments thereto;
 - (C) robbery, as defined in subsection (a) of K.S.A. 21-5420, and amendments thereto;
 - (D) aggravated robbery, as defined in subsection (b) of K.S.A. 21-5420, and amendments thereto;
 - (E) rape, as defined in K.S.A. 21-5503, and amendments thereto;
 - (F) aggravated criminal sodomy, as defined in subsection (b) of K.S.A. 21-5504, and amendments thereto;
 - (G) abuse of a child, as defined in K.S.A. 21-5602, and amendments thereto;
 - (H) felony theft of property as defined in subsection (a)(1) or (a)(3) of K.S.A. 21-5801, and amendments thereto;
 - (I) burglary, as defined in subsection (a) of K.S.A. 21-5807, and amendments thereto;
 - (J) aggravated burglary, as defined in subsection (b) of K.S.A. 21-5807, and amendments thereto;
 - (K) arson, as defined in subsection (a) of K.S.A. 21-5812, and amendments thereto;
 - (L) aggravated arson, as defined in subsection (b) of K.S.A. 21-5812, and amendments thereto;
 - (M) treason, as defined in K.S.A. 21-5901, and amendments thereto;
 - (N) any felony offense as provided in K.S.A. 21-5703, 21-5705 or 21-5706, and amendments thereto;
 - (O) any felony offense as provided in subsection (a) or (b) of K.S.A. 21-6308, and amendments thereto;
 - (P) endangering the food supply, as defined in subsection (a) of K.S.A. 21-6317, and amendments thereto;
 - (Q) aggravated endangering the food supply, as defined in subsection (b) of K.S.A. 21-6317, and amendments thereto;
 - (R) fleeing or attempting to elude a police officer, as defined in subsection (b) of K.S.A. 8-1568, and amendments thereto; or
 - (S) aggravated endangering a child, as defined in subsection (b)(1) of K.S.A. 21-5601, and amendments thereto; and
 - (2) any of the following felonies, only when such felony is so distinct from the homicide alleged to be a violation of subsection (a)(2) as to not be an ingredient of the homicide alleged to be a violation of subsection (a)(2):
 - (A) Murder in the first degree, as defined in subsection (a)(1);
 - (B) murder in the second degree, as defined in subsection (a)(1) of K.S.A. 21-5403, and amendments thereto;
 - (C) voluntary manslaughter, as defined in subsection (a)(1) of K.S.A. 21-5404, and amendments thereto;
 - (D) aggravated assault, as defined in subsection (b) of K.S.A. 21-5412, and amendments thereto;
 - (E) aggravated assault of a law enforcement officer, as defined in subsection (d) of K.S.A. 21-5412, and amendments thereto;
 - (F) aggravated battery, as defined in subsection (b)(1) of K.S.A. 21-5413, and amendments thereto; or
 - (G) aggravated battery against a law enforcement officer, as defined in subsection (d) of K.S.A. 21-5413, and amendments thereto.

21-5403 Murder in the second degree

- (a) Murder in the second degree is the killing of a human being committed:
 - (1) Intentionally; or
 - (2) unintentionally but recklessly under circumstances manifesting extreme indifference to the value of human life.
- (b) Murder in the second degree as defined in:
 - (1) Subsection (a)(1) is a severity level 1, person felony; and

(2) subsection (a)(2) is a severity level 2, person felony.

21-5404 Voluntary manslaughter

Amended 2011

(a) Voluntary manslaughter is knowingly killing a human being committed:

- (1) Upon a sudden quarrel or in the heat of passion; or
- (2) upon an unreasonable but honest belief that circumstances existed that justified *use of* deadly force under *K.S.A. 21-5222, 21-5223 or 21-5225*, and amendments thereto.

(b) Voluntary manslaughter is a severity level 3, person felony.

21-5405 Involuntary manslaughter; involuntary manslaughter while driving under the influence of alcohol or drugs

(a) Involuntary manslaughter is the killing of a human being committed:

- (1) Recklessly;
- (2) in the commission of, or attempt to commit, or flight from any felony, other than an inherently dangerous felony as defined in K.S.A. 21-5402, and amendments thereto, that is enacted for the protection of human life or safety or a misdemeanor that is enacted for the protection of human life or safety, including acts described in K.S.A. 8-1566 and subsection (a) of 8-1568, and amendments thereto, but excluding the acts described in K.S.A. 8-1567, and amendments thereto;
- (3) in the commission of, or attempt to commit, or flight from an act described in K.S.A. 8-1567, and amendments thereto; or
- (4) during the commission of a lawful act in an unlawful manner.

(b) Involuntary manslaughter as defined in:

- (1) Subsection (a)(1), (a)(2) or (a)(4) is a severity level 5, person felony; and
 - (2) subsection (a)(3) is a severity level 4, person felony.
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21-5406 Vehicular homicide

(a) Vehicular homicide is the killing of a human being committed by the operation of an automobile, airplane, motor boat or other motor vehicle in a manner which creates an unreasonable risk of injury to the person or property of another and which constitutes a material deviation from the standard of care which a reasonable person would observe under the same circumstances.

(b) Vehicular homicide is a class A person misdemeanor.

(c) As used in this section, "material deviation" means conduct amounting to more than simple or ordinary negligence but not amount to gross negligence.

21-5407 Assisting suicide

(a) Assisting suicide is:

- (1) Knowingly, by force or duress, causing another person to commit or attempt to commit suicide; or
- (2) intentionally assisting another person to commit or to attempt to commit suicide by:
 - (A) Providing the physical means by which another person commits or attempts to commit suicide; or
 - (B) participating in a physical act by which another person commits or attempts to commit suicide.

(b) Assisting suicide as defined in:

- (1) Subsection (a)(1) is a severity level 3, person felony; and
 - (2) subsection (a)(2) is a severity level 9, person felony.
-

21-5408 Kidnapping; aggravated kidnapping

(a) Kidnapping is the taking or confining of any person, accomplished by force, threat or deception, with the intent to hold such person:

- (1) For ransom, or as a shield or hostage;
- (2) to facilitate flight or the commission of any crime;
- (3) to inflict bodily injury or to terrorize the victim or another; or
- (4) to interfere with the performance of any governmental or political function.

(b) Aggravated kidnapping is kidnapping, as defined in subsection (a), when bodily harm is inflicted upon the person kidnapped.

(c)(1) Kidnapping is a severity level 3, person felony.

(2) Aggravated kidnapping is a severity level 1, person felony.

21-5409 Interference with parental custody; aggravated interference with parental custody

(a) Interference with parental custody is taking or enticing away any child under the age of 16 years with the intent to detain or conceal such child from the child's parent, guardian or other person having the lawful charge of such child.

(b) Aggravated interference with parental custody is:

(1) Hiring someone to commit the crime of interference with parental custody, as defined in subsection (a); or

(2) the commission of interference with parental custody, as defined in subsection (a), by a person who:

(A) Has previously been convicted of the crime;

(B) commits the crime for hire;

(C) takes the child outside the state without the consent of either the person having custody or the court;

(D) after lawfully taking the child outside the state while exercising visitation rights or parenting time, refuses to return the child at the expiration of that time;

(E) at the expiration of the exercise of any visitation rights or parenting time outside the state, refuses to return or impedes the return of the child; or

(F) detains or conceals the child in an unknown place, whether inside or outside the state.

(c)(1) Interference with parental custody is a:

(A) Severity level 10, person felony, except as provided in subsection (c)(1)(B); and

(B) class A person misdemeanor, if the defendant is a parent entitled to joint custody of the child either on the basis of a court order or by virtue of the absence of a court order.

(2) Aggravated interference with parental custody is a severity level 7, person felony.

(d) It is not a defense to a prosecution under subsection (a) that the defendant is a parent entitled to joint custody of the child either on the basis of a court order or by virtue of the absence of a court order.

21-5410 Interference with custody of a committed person

(a) Interference with custody of a committed person is knowingly taking or enticing any committed person away from the control of such person's lawful custodian without privilege to do so.

(b) Interference with custody of a committed person is a class A nonperson misdemeanor.

(c) As used in this section, "committed person" means any person committed other than by criminal process to any institution or other custodian by a court, officer or agency authorized by law to make such commitment.

21-5411 Criminal restraint

(UPOC §3.6)

(a) Criminal restraint is knowingly and without legal authority restraining another person so as to interfere substantially with such person's liberty.

(b) Criminal restraint is a class A person misdemeanor.

(c) This section shall not apply to acts done in the performance of duty by any law enforcement officer of the state of Kansas or any political subdivision thereof.

(d) Any merchant, or a merchant's agent or employee, who has probable cause to believe that a person has actual possession of and has wrongfully taken, or is about to wrongfully take merchandise from a mercantile establishment, may detain such person on the premises or in the immediate vicinity thereof, in a reasonable manner and for a reasonable period of time for the purpose of investigating the circumstances of such possession. Such reasonable detention shall not constitute an arrest nor criminal restraint.

21-5412 Assault & aggravated assault; assault & aggravated assault of a law enforcement officer

(UPOC §3.3)

Amended 2011

(a) Assault is knowingly placing another person in reasonable apprehension of immediate bodily harm;

- (b) Aggravated assault is assault, as *defined* in subsection (a), committed:
- (1) With a deadly weapon;
 - (2) while disguised in any manner designed to conceal identity; or
 - (3) with intent to commit any felony.
- (c) Assault of a law enforcement officer is assault, as defined in subsection (a), committed against:
- (1) A uniformed or properly identified state, county or city law enforcement officer while such officer is engaged in the performance of such officer's duty; or
 - (2) a uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty.
- (d) Aggravated assault of a law enforcement officer is assault of a law enforcement officer, as defined in subsection (c), committed:
- (1) With a deadly weapon;
 - (2) while disguised in any manner designed to conceal identity; or
 - (3) with intent to commit any felony.
- (e)(1) Assault is a class C person misdemeanor.
- (2) Aggravated assault is a severity level 7, person felony.
- (3) Assault of a law enforcement officer is a class A person misdemeanor.
- (4) Aggravated assault of a law enforcement officer is a severity level 6, person felony. A person convicted of aggravated assault of a law enforcement officer shall be subject to the provisions of subsection (g) *of K.S.A. 21-6804*, and amendments thereto.

21-5413 Battery & aggravated battery; battery & aggravated battery against a law enforcement officer; battery against a school employee; battery against a mental health employee
(UPOC §§3.1 & 3.2)¹

Amended 2011

- (a) Battery is:
- (1) Knowingly or recklessly causing bodily harm to another person; or
 - (2) knowingly causing physical contact with another person when done in a rude, insulting or angry manner;
- (b) Aggravated battery is:
- (1)(A) Knowingly causing great bodily harm to another person or disfigurement of another person;
 - (B) knowingly causing bodily harm to another person with a deadly weapon, or in any manner whereby great bodily harm, disfigurement or death can be inflicted; or
 - (C) knowingly causing physical contact with another person when done in a rude, insulting or angry manner with a deadly weapon, or in any manner whereby great bodily harm, disfigurement or death can be inflicted;
 - (2)(A) recklessly causing great bodily harm to another person or disfigurement of another person; or
 - (B) recklessly causing bodily harm to another person with a deadly weapon, or in any manner whereby great bodily harm, disfigurement or death can be inflicted.
- (c) Battery against a law enforcement officer is:
- (1) Battery, as defined in subsection (a)(2), committed against a:
 - (A) Uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty; or
 - (B) uniformed or properly identified state, county or city law enforcement officer, other than a state correctional officer or employee, a city or county correctional officer or employee, a juvenile correctional facility officer or employee or a juvenile detention facility *officer*, or employee, while such officer is engaged in the performance of such officer's duty; or
 - (2) battery, as defined in subsection (a)(1), committed against a:
 - (A) Uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty; or

- (B) uniformed or properly identified state, county or city law enforcement officer, other than a state correctional officer or employee, a city or county correctional officer or employee, a juvenile correctional facility officer or employee or a juvenile detention facility office, or employee, while such officer is engaged in the performance of such officer's duty; or
- (3) battery, as defined in subsection (a) committed against a:
- (A) State correctional officer or employee by a person in custody of the secretary of corrections, while such officer or employee is engaged in the performance of such officer's or employee's duty;
 - (B) juvenile correctional facility officer or employee by a person confined in such juvenile correctional facility, while such officer or employee is engaged in the performance of such officer's or employee's duty;
 - (C) juvenile detention facility officer or employee by a person confined in such juvenile detention facility, while such officer or employee is engaged in the performance of such officer's or employee's duty; or
 - (D) city or county correctional officer or employee by a person confined in a city holding facility or county jail facility, while such officer or employee is engaged in the performance of such officer's or employee's duty.
- (d) Aggravated battery against a law enforcement officer is:
- (1) An aggravated battery, as defined in **subsection (b)(1)(A)** committed against a:
 - (A) Uniformed or properly identified state, county or city law enforcement officer while the officer is engaged in the performance of the officer's duty; or
 - (B) uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty;
 - (2) an aggravated battery, as defined in subsection (b)(1)(B) or (b)(1)(C), committed against a:
 - (A) Uniformed or properly identified state, county or city law enforcement officer while the officer is engaged in the performance of the officer's duty; or
 - (B) uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty; or
 - (3) knowingly causing, with a motor vehicle, bodily harm to a:
 - (A) Uniformed or properly identified state, county or city law enforcement officer while the officer is engaged in the performance of the officer's duty; or
 - (B) uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty.
- (e) Battery against a school employee is a battery, as defined in subsection (a), committed against a school employee in or on any school property or grounds upon which is located a building or structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12 or at any regularly scheduled school sponsored activity or event, while such employee is engaged in the performance of such employee's duty.
- (f) Battery against a mental health employee is a battery, as defined in subsection (a), committed against a mental health employee by a person in the custody of the secretary of social and rehabilitation services, while such employee is engaged in the performance of such employee's duty.
- (g)(1) Battery is a class B person misdemeanor.
- (2) Aggravated battery as defined in:
 - (A) Subsection (b)(1)(A) is a severity level 4, person felony;
 - (B) subsection (b)(1)(B) or (b)(1)(C) is a severity level 7, person felony;
 - (C) subsection (b)(2)(A) is a severity level 5, person felony; and
 - (D) subsection (b)(2)(B) is a severity level 8, person felony.
 - (3) Battery against a law enforcement officer as defined in:
 - (A) Subsection (c)(1) is a class A person misdemeanor;
 - (B) subsection (c)(2) is a severity level 7, person felony; and
 - (C) subsection (c)(3) is a severity level 5, person felony.
 - (4) Aggravated battery against a law enforcement officer as defined in:

- (A) Subsection (d)(1) or (d)(3) is a severity level 3, person felony; and
(B) subsection (d)(2) is a severity level 4, person felony.
- (5) Battery against a school employee is a class A person misdemeanor.
(6) Battery against a mental health employee is a severity level 7, person felony.
- (h) As used in this section:
- (1) “Correctional institution” means any institution or facility under the supervision and control of the secretary of corrections;
(2) “state correctional officer or employee” means any officer or employee of the Kansas department of corrections or any independent contractor, or any employee of such contractor, working at a correctional institution;
(3) “juvenile correctional facility officer or employee” means any officer or employee of the juvenile justice authority or any independent contractor, or any employee of such contractor, working at a juvenile correctional facility, as defined in K.S.A. 38-2302, and amendments thereto;
(4) “juvenile detention facility officer or employee” means any officer or employee of a juvenile detention facility as defined in K.S.A. 38-2302, and amendments thereto;
(5) “city or county correctional officer or employee” means any correctional officer or employee of the city or county or any independent contractor, or any employee of such contractor, working at a city holding facility or county jail facility;
(6) “school employee” means any employee of a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12; and
(7) “mental health employee” means an employee of the department of social and rehabilitation services working at Larned state hospital, Osawatomie state hospital and Rainbow mental health facility, Kansas neurological institute and Parsons state hospital and training center and the treatment staff as defined in K.S.A. 59-29a02, and amendments thereto.

Note: *The 2011 amendment to this section consisted only of the noted typographical corrections.*

¹**Note:** UPOC §3.1 relates to subsection (a), UPOC §3.2 relates to subsection (c).

21-5414 Domestic battery **(UPOC §3.1.1)**

Amended 2011

- (a) Domestic battery is:
- (1) **Knowingly or** recklessly causing bodily harm by a family or household member against a family or household member; or
(2) knowingly causing physical contact with a family or household member by a family or household member when done in a rude, insulting or angry manner.
- (b) Domestic battery is a:
- (1) Class B person misdemeanor and the offender shall be sentenced to not less than 48 consecutive hours nor more than six months’ imprisonment and fined not less than \$200, nor more than \$500 or in the court’s discretion the court may enter an order which requires the offender enroll in and successfully complete a domestic violence prevention program, except as provided in subsection (b)(2) or (b)(3);
(2) class A person misdemeanor, if, within five years immediately preceding commission of the crime, an offender is convicted of domestic battery a second time and the offender shall be sentenced to not less than 90 days nor more than one year’s imprisonment and fined not less than \$500 nor more than \$1,000, except as provided in subsection (b)(3). The five days imprisonment mandated by this paragraph may be served in a work release program only after such offender has served 48 consecutive hours imprisonment, provided such work release program requires such offender to return to confinement at the end of each day in the work release program. The offender shall serve at least five consecutive days imprisonment before the offender is granted probation, suspension or reduction of sentence or parole or is otherwise released. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the offender shall be required to enter into and complete a treatment program for domestic violence prevention; and

(3) person felony, if, within five years immediately preceding commission of the crime, an offender is convicted of domestic battery a third or subsequent time, and the offender shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,000 nor more than \$7,500. The offender convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the offender has served at least 90 days imprisonment. The court shall require as a condition of parole that such offender enter into and complete a treatment program for domestic violence. If the offender does not enter into and complete a treatment program for domestic violence, the offender shall serve not less than 180 days nor more than one year's imprisonment. The 90 days imprisonment mandated by this paragraph may be served in a work release program only after such offender has served 48 consecutive hours imprisonment, provided such work release program requires such offender to return to confinement at the end of each day in the work release program.

(c) As used in this section:

(1) "Family or household member" means persons 18 years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren, and persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or who have lived together at any time. "Family or household member" also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and

(2) for the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section:

(A) "Conviction" includes being convicted of a violation of K.S.A. 21-3412a, prior to its repeal, this section or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section;

(B) "conviction" includes being convicted of a violation of a law of another state, or an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings in a case alleging a violation of such law, ordinance or resolution;

(C) only convictions occurring in the immediately preceding five years including prior to *July 1, 2001* shall be taken into account, but the court may consider other prior convictions in determining the sentence to be imposed within the limits provided for a first, second, third or subsequent offender, whichever is applicable; and

(D) it is irrelevant whether an offense occurred before or after conviction for a previous offense.

(d) A person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section or an ordinance of any city or resolution of any county which prohibits the acts that this section prohibits only twice during any *five-year* period.

21-5415 Criminal threat; aggravated criminal threat

(a) A criminal threat is any threat to:

(1) Commit violence communicated with intent to place another in fear, or to cause the evacuation, lock down or disruption in regular, ongoing activities of any building, place of assembly or facility of transportation, or in reckless disregard of the risk of causing such fear or evacuation, lock down or disruption in regular, ongoing activities;

(2) adulterate or contaminate any food, raw agricultural commodity, beverage, drug, animal feed, plant or public water supply; or

(3) expose any animal in this state to any contagious or infectious disease.

(b) Aggravated criminal threat is the commission of a criminal threat, as defined in subsection (a), when a public, commercial or industrial building, place of assembly or facility of transportation is evacuated, locked down or disrupted as to regular, ongoing activities as a result of the threat.

(c)(1) A criminal threat is a severity level 9, person felony.

(2) Aggravated criminal threat is a severity level 5, person felony.

(d) As used in this section, “threat” includes any statement that one has committed any action described by subsection (a).

21-5416 Mistreatment of a confined person

(UPOC §3.7)

(a) Mistreatment of a confined person is knowingly abusing, neglecting or ill-treating any person, who is detained or confined by any law enforcement officer or by any person in charge of or employed by the owner or operator of any correctional institution.

(b) Mistreatment of a confined person is a class A person misdemeanor.

21-5417 Mistreatment of a dependent adult

Amended 2011

(a) Mistreatment of a dependent adult is knowingly committing one or more of the following acts:

(1) Infliction of physical injury, unreasonable confinement or ***unreasonable*** punishment upon a dependent adult;

(2) taking unfair advantage of a dependent adult’s physical or financial resources for another individual’s personal or financial advantage by the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense; ***or***

(3) ***omission or deprivation of*** treatment, goods or services ***that*** are necessary to maintain physical or mental health of a dependent adult.

(b) Mistreatment of a dependent adult as defined in:

(1) Subsection (a)(1) is a severity ***level 5, person felony***;

(2) subsection (a)(2) if the aggregate amount of the value of the resources is:

(A) \$1,000,000 or more is a severity level 2, person felony;

(B) at least \$250,000 but less than \$1,000,000 is a severity level 3, person felony;

(C) at least \$100,000 but less than \$250,000 is a severity level 4, person felony;

(D) at least \$25,000 but less than \$100,000 is a severity level 5, person felony;

(E) at least \$1,000 but less than \$25,000 is a severity level 7, person felony;

(F) less than \$1,000 is a class A person misdemeanor, except as provided in subsection (b)(2)(G); and

(G) less than \$1,000 and committed by a person who has, within five years immediately preceding commission of the crime, the offender has been convicted of mistreatment of a dependent adult two or more times ***is a severity level 7, person felony***; and

(3) subsection (a)(3) is a severity level 8, person felony.

(c) No dependent adult is considered to be mistreated for the sole reason that such dependent adult relies upon or is being furnished treatment by spiritual means through prayer in lieu of medical treatment in accordance with the tenets and practices of a recognized church or religious denomination of which such dependent adult is a member or adherent.

(d) As used in this section, “dependent adult” means an individual 18 years of age or older who is unable to protect the individual’s own interest. Such term shall include, but is not limited to, any:

(1) Resident of an adult care home including, but not limited to, those facilities defined by K.S.A. 39-923, and amendments thereto;

(2) adult cared for in a private residence;

(3) individual kept, cared for, treated, boarded, confined or otherwise accommodated in a medical care facility;

(4) individual with mental retardation or a developmental disability receiving services through a community mental retardation facility or residential facility licensed under K.S.A. 75-3307b, and amendments thereto;

(5) individual with a developmental disability receiving services provided by a community service provider as provided in the developmental disability reform act; or

(6) individual kept, cared for, treated, boarded, confined or otherwise accommodated in a state psychiatric hospital or state institution for the mentally retarded.

(e) An offender who violates the provisions of this section may also be prosecuted for, convicted of, and punished for any other offense in *K.S.A. 21-5401 through 21-5428, K.S.A. 21-5501 through 21-5513, K.S.A. 21-5601 through 21-5609, K.S.A. 21-5801 through 21-5839 and K.S.A. 21-6418*, and amendments thereto.

21-5418 Hazing

Amended 2011

(a) Hazing is recklessly coercing, demanding or encouraging another person to perform, as a condition of membership in a social or fraternal organization, any act which could reasonably be expected to result in great bodily harm, disfigurement or death or which is done in a manner whereby great bodily harm, disfigurement or death could be inflicted.

(b) ¹Hazing is a class B nonperson misdemeanor.

¹**Note:** *The 2011 amendment deleted the words “Promoting or permitting” from the footnote location.*

21-5420 Robbery; aggravated robbery

(a) Robbery is knowingly taking property from the person or presence of another by force or by threat of bodily harm to any person.

(b) Aggravated robbery is robbery, as defined in subsection (a), when committed¹ by a person who:

(1) Is armed with a dangerous weapon; or

(2) inflicts bodily harm upon any person in the course of such robbery.

(c)(1) Robbery is a severity level 5, person felony.

(2) Aggravated robbery is a severity level 3, person felony.

¹**Note:** So in original legislation. Legislative intent may have been “committed”.

21-5425 Unlawful administration of a substance

(UPOC §3.11)

Amended 2011

(a) Unlawful administration of a substance is the administration of a substance to another person without consent with the intent to impair such other person’s physical or mental ability to appraise or control such person’s conduct.

(b) Unlawful administration of a substance is a class A person misdemeanor.

(c) This section shall not prohibit administration of any substance described in **subsection (d)** for lawful medical or therapeutic treatment.

(d) As used in this section, “administration of a substance” means any method of causing the ingestion by another person of a controlled substance, including gamma hydroxybutyric acid, or any controlled substance analog, as defined in K.S.A. 65-4101, **and amendments thereto**, of gamma hydroxybutyric acid, including gamma butyrolactone; butyrolactone; butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro; dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide; 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone; 3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone with CAS No. 96-48-0; 1,4 butanediol; butanediol; butane-1,4-diol; 1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane; 1,4-tetramethylene glycol; tetramethylene glycol; tetramethylene 1,4-diol.

21-5426 Trafficking; aggravated trafficking

Amended 2011

(a) **Human** trafficking is:

(1) ***The intentional recruitment, harboring, transportation, provision or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjecting the person to involuntary servitude or forced labor;***

(2) ***intentionally*** benefitting financially or by receiving anything of value from participation in a venture that the person has reason to know has engaged in acts set forth in subsection (a)(1);

(3) ***knowingly coercing employment by obtaining or maintaining labor or services that are performed or provided by another person through any of the following:***

(A) Causing or threatening to cause physical injury to any person;

(B) physically restraining or threatening to physically restrain another person;

- (C) abusing or threatening to abuse the law or legal process;*
(D) threatening to withhold food, lodging or clothing; or
(E) knowingly destroying, concealing, removing, confiscating or possessing any actual or purported government identification document of another person; or
(4) knowingly holding another person in a condition of peonage in satisfaction of a debt owed the person who is holding such other person.
- (b) Aggravated **human** trafficking is:
- (1) **Human** trafficking, as defined in subsection (a):
- (A) Involving the commission or attempted commission of kidnapping, as defined in subsection (a) of **K.S.A. 21-5408**, and amendments thereto;
- (B) committed in whole or in part for the purpose of the sexual gratification of the defendant or another; or
- (C) resulting in a death; or
- (2) recruiting, harboring, transporting, providing or obtaining, by any means, a person under 18 years of age knowing that the person, with or without force, fraud, threat or coercion, will be used to engage in forced labor, involuntary servitude or sexual gratification of the defendant or another.
- (c)(1) **Human** trafficking is a severity level 2, person felony.
- (2) Aggravated **human** trafficking is a *severity* level 1, person felony, except as provided in *subsection (c) (3)*.
- (3) Aggravated human trafficking or attempt, conspiracy or criminal solicitation to commit aggravated human trafficking is an off-grid person felony, when the offender is 18 years of age or older and the victim is less than 14 years of age.*
- (d) If the offender is 18 years of age or older and the victim is less than 14 years of age, the provisions of:*
- (1) Subsection (c) of K.S.A. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of aggravated human trafficking pursuant to this section;*
- (2) subsection (c) of K.S.A. 21-5302, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of aggravated human trafficking pursuant to this section; and*
- (3) subsection (d) of K.S.A. 21-5303, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of aggravated human trafficking pursuant to this section.*
- (e) The provisions of this section shall not apply to the use of the labor of any person incarcerated in a state or county correctional facility or city jail.*
- (f) As used in this section, “peonage” means a condition of involuntary servitude in which the victim is forced to work for another person by the use or threat of physical restraint or physical injury, or by the use or threat of coercion through law or the legal process.*

21-5427 Stalking

(UPOC §3.13)

Amended 2011

- (a) Stalking is:
- (1) Recklessly engaging in a course of conduct targeted at a specific person which would cause a reasonable person in the circumstances of the targeted person to fear for such person’s safety, or the safety of a member of such person’s immediate family and the targeted person is actually placed in such fear;
- (2) engaging in a course of conduct targeted at a specific person with knowledge that the course of conduct will place the targeted person in fear for such person’s safety or the safety of a member of such person’s immediate family; or
- (3) after being served with, or otherwise provided notice of, any protective order included in K.S.A. 21-3843, prior to its repeal or **K.S.A. 21-5924**, and amendments thereto, that prohibits contact with a targeted person, recklessly engaging in at least one act listed in subsection (f)(1) that violates the provisions of the order and would cause a reasonable person to fear for such person’s safety, or the safety of a member of such person’s immediate family and the targeted person is actually placed in such fear.
- (b) Stalking as defined in:
- (1) Subsection (a)(1) is a:

- (A) Class A person misdemeanor, except as provided in subsection (b)(1)(B); and
 - (B) severity level 7, person felony upon a second or subsequent conviction;
- (2) subsection (a)(2) is a:
- (A) Class A person misdemeanor, except as provided in subsection (b)(2)(B); and
 - (B) severity level 5, person felony upon a second or subsequent conviction; and
- (3) subsection (a)(3) is a:
- (A) Severity level 9, person felony, except as provided in subsection (b)(3)(B); and
 - (B) severity level 5, person felony, upon a second or subsequent conviction.
- (c) For the purposes of this section, a person served with a protective order as defined by K.S.A. 21-3843, prior to its repeal *or K.S.A. 21-5924*, and amendments thereto, or a person who engaged in acts which would constitute stalking, after having been advised by a law enforcement officer, that such person's actions were in violation of this section, shall be presumed to have acted knowingly as to any like future act targeted at the specific person or persons named in the order or as advised by the officer.
- (d) In a criminal proceeding under this section, a person claiming an exemption, exception or exclusion has the burden of going forward with evidence of the claim.
- (e) The present incarceration of a person alleged to be violating this section shall not be a bar to prosecution under this section.
- (f) As used in this section:
- (1) "Course of conduct" means two or more acts over a period of time, however short, which evidence a continuity of purpose. A course of conduct shall not include constitutionally protected activity nor conduct that was necessary to accomplish a legitimate purpose independent of making contact with the targeted person. A course of conduct shall include, but not be limited to, any of the following acts or a combination thereof:
 - (A) Threatening the safety of the targeted person or a member of such person's immediate family;
 - (B) following, approaching or confronting the targeted person or a member of such person's immediate family;
 - (C) appearing in close proximity to, or entering the targeted person's residence, place of employment, school or other place where such person can be found, or the residence, place of employment or school of a member of such person's immediate family;
 - (D) causing damage to the targeted person's residence or property or that of a member of such person's immediate family;
 - (E) placing an object on the targeted person's property or the property of a member of such person's immediate family, either directly or through a third person;
 - (F) causing injury to the targeted person's pet or a pet belonging to a member of such person's immediate family;
 - (G) any act of communication;
 - (2) "communication" means to impart a message by any method of transmission, including, but not limited to: Telephoning, personally delivering, sending or having delivered, any information or material by written or printed note or letter, package, mail, courier service or electronic transmission, including electronic transmissions generated or communicated via a computer;
 - (3) "computer" means a programmable, electronic device capable of accepting and processing data;
 - (4) "conviction" includes being convicted of a violation of K.S.A. 21-3438, prior to its repeal, this section or a law of another state which prohibits the acts that this section prohibits; and
 - (5) "immediate family" means father, mother, stepparent, child, stepchild, sibling, spouse or grandparent of the targeted person; any person residing in the household of the targeted person; or any person involved in an intimate relationship with the targeted person.

21-5428 Blackmail

Amended 2011¹ [See endnote]

- (a) Blackmail is gaining or attempting to gain anything of value or compelling or attempting to compel another to act against such person's will, by threatening to:

(1) Communicate accusations or statements about any person that would subject such person or any other person to public ridicule, contempt or degradation; *or*

(2) disseminate any videotape, photograph, film, or image obtained in violation of subsection (a)(6) of K.S.A. 21-6101, and amendments thereto.

(b) Blackmail as defined in:

(1) Subsection (a)(1) is a severity level 7, nonperson felony; and

(2) subsection (a)(2) is a severity level 4, person felony.

¹Note: The 2011 amendments resulted in two versions of this crime, 21-5428 and 21-5428a.

21-5428a Blackmail

Amended 2011¹ [See endnote]

(a) Blackmail is *intentionally* gaining or attempting to gain anything of value or compelling or attempting to compel another to act against such person's will, by threatening to communicate accusations or statements, about any person that would subject such person or any other person to public ridicule, contempt or degradation.

(b) Blackmail is a severity level 7, nonperson felony.

¹Note: The 2011 amendments resulted in two versions of this crime, 21-5428 and 21-5428a.

21-5501 Sexual offenses—Definitions

The following definitions shall apply when the words and phrases defined are used in K.S.A. 21-5502 through 21-5513 and K.S.A. 21-6419, 21-6420 and 21-6421, and amendments thereto, except when a particular context clearly requires a different meaning:

(a) "Sexual intercourse" means any penetration of the female sex organ by a finger, the male sex organ or any object. Any penetration, however slight, is sufficient to constitute sexual intercourse. "Sexual intercourse" does not include penetration of the female sex organ by a finger or object in the course of the performance of:

(1) Generally recognized health care practices; or

(2) a body cavity search conducted in accordance with K.S.A. 22-2520 through 22-2524, and amendments thereto.

(b) "Sodomy" means oral contact or oral penetration of the female genitalia or oral contact of the male genitalia; anal penetration, however slight, of a male or female by any body part or object; or oral or anal copulation or sexual intercourse between a person and an animal. "Sodomy" does not include penetration of the anal opening by a finger or object in the course of the performance of:

(1) Generally recognized health care practices; or

(2) a body cavity search conducted in accordance with K.S.A. 22-2520 through 22-2524, and amendments thereto.

(c) "Spouse" means a lawful husband or wife, unless the couple is living apart in separate residences or either spouse has filed an action for annulment, separate maintenance or divorce or for relief under the protection from abuse act.

(d) "Unlawful sexual act" means any rape, indecent liberties with a child, aggravated indecent liberties with a child, criminal sodomy, aggravated criminal sodomy, lewd and lascivious behavior, sexual battery or aggravated sexual battery, as defined in this code.

21-5503 Rape

Amended 2011

(a) Rape is:

(1) Knowingly engaging in sexual intercourse with a victim who does not consent to the sexual intercourse under any of the following circumstances:

(A) When the victim is overcome by force or fear; or

(B) when the victim is unconscious or physically powerless;

(2) Knowingly engaging in sexual intercourse with a victim when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the

- effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by the offender or was reasonably apparent to the offender;
- (3) sexual intercourse with a child who is under 14 years of age;
 - (4) sexual intercourse with a victim when the victim's consent was obtained through a knowing misrepresentation made by the offender that the sexual intercourse was a medically or therapeutically necessary procedure; or
 - (5) sexual intercourse with a victim when the victim's consent was obtained through a knowing misrepresentation made by the offender that the sexual intercourse was a legally required procedure within the scope of the offender's authority.
- (b)(1) Rape as defined in:
- (A) Subsection (a)(1) or (a)(2) is a severity level 1, person felony;
 - (B) subsection (a)(3) is a *severity* level 1, person felony, except as provided in subsection (b)(2); and
 - (C) *subsection (a)(4) or (a)(5) is a severity level 2, person felony.*
- (2) *Rape as defined in subsection (a)(3) or attempt, conspiracy or criminal solicitation to commit rape as defined in subsection (a)(3)* is an off-grid person felony, when the offender is 18 years of age or older.
- (c) *If the offender is 18 years of age or older, the provisions of:*
- (1) *Subsection (c) of K.S.A. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of rape as defined in subsection (a)(3);*
 - (2) *subsection (c) of K.S.A. 21-5302, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of rape as defined in subsection (a)(3); and*
 - (3) *subsection (d) of K.S.A. 21-5303, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of rape as defined in subsection (a)(3).*
- (d) It shall be a defense to a prosecution of rape under subsection (a)(3) that the child was married to the accused at the time of the offense.
- (e) Except as provided in subsection (a)(2), it shall not be a defense that the offender did not know or have reason to know that the victim did not consent to the sexual intercourse, that the victim was overcome by force or fear, or that the victim was unconscious or physically powerless.

21-5504 Criminal sodomy; aggravated criminal sodomy

Amended 2011

- (a) Criminal sodomy is:
- (1) Sodomy between persons who are 16 or more years of age and members of the same sex;
 - (2) sodomy between a person and an animal;
 - (3) sodomy with a child who is 14 or more years of age but less than 16 years of age; or
 - (4) causing a child 14 or more years of age but less than 16 years of age to engage in sodomy with any person or animal.
- (b) Aggravated criminal sodomy is:
- (1) Sodomy with a child who is under 14 years of age;
 - (2) causing a child under 14 years of age to engage in sodomy with any person or an animal; or
 - (3) sodomy with a victim who does not consent to the sodomy or causing a victim, without the victim's consent, to engage in sodomy with any person or an animal under any of the following circumstances:
 - (A) When the victim is overcome by force or fear;
 - (B) when the victim is unconscious or physically powerless; or
 - (C) when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by, or was reasonably apparent to, the offender.
- (c)(1) Criminal sodomy as defined in:
- (A) Subsection (a)(1) or (a)(2) is a class B nonperson misdemeanor; and
 - (B) subsection (a)(3) or (a)(4) is a severity level 3, person felony.
- (2) Aggravated criminal sodomy as defined in:
- (A) Subsection (b)(3) is a severity level 1, person felony; and

(B) subsection (b)(1) or (b)(2) is a severity level 1, person felony, except as provided in *subsection (c)(3)*.
(3) Aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2) or attempt, conspiracy or criminal solicitation to commit aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2) is an off-grid person felony, when the offender is 18 years of age or older.

(d) If the offender is 18 years of age or older, the provisions of:

(1) Subsection (c) of K.S.A. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2);

(2) subsection (c) of K.S.A. 21-5302, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2); and

(3) subsection (d) of K.S.A. 21-5303, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2).

(e) It shall be a defense to a prosecution of criminal sodomy, as defined in subsection (a)(3), and aggravated criminal sodomy, as defined in subsection (b)(1), that the child was married to the accused at the time of the offense.

(f) Except as provided in subsection (b)(3)(C), it shall not be a defense that the offender did not know or have reason to know that the victim did not consent to the sodomy, that the victim was overcome by force or fear, or that the victim was unconscious or physically powerless.

21-5505 Sexual battery; aggravated sexual battery

(UPOC §3.2.1)

(a) Sexual battery is the touching of a victim who is not the spouse of the offender, who is 16 or more years of age and who does not consent thereto, with the intent to arouse or satisfy the sexual desires of the offender or another.

(b) Aggravated sexual battery is the touching of a victim who is 16 or more years of age and who does not consent thereto with the intent to arouse or satisfy the sexual desires of the offender or another and under any of the following circumstances:

(1) When the victim is overcome by force or fear;

(2) when the victim is unconscious or physically powerless; or

(3) when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by, or was reasonably apparent to, the offender.

(c)(1) Sexual battery is a class A person misdemeanor.

(2) Aggravated sexual battery is a severity level 5, person felony.

(d) Except as provided in subsection (b)(3), it shall not be a defense that the offender did not know or have reason to know that the victim did not consent to the battery, that the victim was overcome by force or fear, or that the victim was unconscious or physically powerless.

21-5506 Indecent liberties with a child; aggravated indecent liberties with a child

Amended 2011

(a) Indecent liberties with a child is engaging in any of the following acts with a child who is 14 *or more* years of age but less than 16 years of age:

(1) Any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child or the offender, or both; or

(2) soliciting the child to engage in any lewd fondling or touching of the person of another with the intent to arouse or satisfy the sexual desires of the child, the offender or another.

(b) Aggravated indecent liberties with a child is:

(1) Sexual intercourse with a child who is 14 or more years of age but less than 16 years of age;

(2) engaging in any of the following acts with a child who is 14 or more years of age but less than 16 years of age and who does not consent thereto:

(A) Any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child or the offender, or both; or

- (B) causing the child to engage in any lewd fondling or touching of the person of another with the intent to arouse or satisfy the sexual desires of the child, the offender or another; or
- (3) engaging in any of the following acts with a child who is under 14 years of age:
- (A) Any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child or the offender, or both; or
- (B) soliciting the child to engage in any lewd fondling or touching of the person of another with the intent to arouse or satisfy the sexual desires of the child, the offender or another.
- (c)(1) Indecent liberties with a child is a severity level 5, person felony.
- (2) Aggravated indecent liberties with a child as defined in:
- (A) Subsection (b)(1) is a severity level 3, person felony;
- (B) subsection (b)(2) is a severity level 4, person felony; and
- (C) subsection (b)(3) is a severity level 3, person felony, except as provided in *subsection (c)(3)*.
- (3) Aggravated indecent liberties with a child as defined in subsection (b)(3) or attempt, conspiracy or criminal solicitation to commit aggravated indecent liberties with a child as defined in subsection (b)(3) is an off-grid person felony, when the offender is 18 years of age or older.**
- (d) If the offender is 18 years of age or older, the provisions of:**
- (1) Subsection (c) of K.S.A. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of aggravated indecent liberties with a child as defined in subsection (b)(3);**
- (2) subsection (c) of K.S.A. 21-5302, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of aggravated indecent liberties with a child as defined in subsection (b)(3);**
- (3) subsection (d) of K.S.A. 21-5303, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of aggravated indecent liberties with a child as defined in subsection (b)(3).**
- (e) It shall be a defense to a prosecution of indecent liberties with a child, as defined in subsection (a)(1), and aggravated indecent liberties with a child, as defined in subsections (b)(1), (b)(2)(A) and (b)(3)(A) that the child was married to the accused at the time of the offense.

21-5507 Unlawful voluntary sexual relations

- (a) Unlawful voluntary sexual relations is:
- (1) Engaging in any of the following acts with a child who is 14 or more years of age but less than 16 years of age:
- (A) Voluntary sexual intercourse;
- (B) voluntary sodomy; or
- (C) voluntary lewd fondling or touching;
- (2) when the offender is less than 19 years of age;
- (3) when the offender is less than four years of age older than the child;
- (4) when the child and the offender are the only parties involved; and
- (5) when the child and the offender are members of the opposite sex.
- (b) Unlawful voluntary sexual relations as defined in:
- (1) Subsection (a)(1)(A) is a severity level 8, person felony;
- (2) subsection (a)(1)(B) is a severity level 9, person felony; and
- (3) subsection (a)(1)(C) is a severity level 10, person felony.

21-5508 Indecent solicitation of a child; aggravated indecent solicitation of a child

- (a) Indecent solicitation of a child is enticing, commanding, inviting, persuading or attempting to persuade a child 14 or more years of age but less than 16 years of age to:
- (1) Commit or to submit to an unlawful sexual act; or
- (2) enter any vehicle, building, room or secluded place with intent to commit an unlawful sexual act upon or with the child.
- (b) Aggravated indecent solicitation of a child is enticing, commanding, inviting, persuading or attempting to persuade a child under the age of 14 years to:
- (1) Commit or submit to an unlawful sexual act; or

(2) enter any vehicle, building, room or secluded place with the intent to commit an unlawful sexual act upon or with the child.

(c)(1) Indecent solicitation of a child is a severity level 6, person felony.

(2) Aggravated indecent solicitation of a child is a severity level 5, person felony.

(d) It shall not be a defense that the offender did not know or have reason to know that the sexual act was unlawful.

21-5509 Electronic solicitation

(a) Electronic solicitation is, by means of communication conducted through the telephone, internet or by other electronic means, enticing or soliciting a person, whom the offender believes to be a child, to commit or submit to an unlawful sexual act.

(b) Electronic solicitation is a:

(1) Severity level 3, person felony if the offender believes the person to be a child 14 or more years of age but less than 16 years of age; and

(2) severity level 1, person felony if the offender believes the person to be a child under 14 years of age.

(c) As used in this section, “communication conducted through the internet or by other electronic means” includes, but is not limited to, e-mail, chatroom chats and text messaging.

21-5510 Sexual exploitation of a child

Amended 2011

(a) Sexual exploitation of a child is:

(1) Employing, using, persuading, inducing, enticing or coercing a child under 18 years of age, ***or a person whom the offender believes to be a child under 18 years of age***, to engage in sexually explicit conduct with the intent to promote any performance;

(2) possessing any visual depiction of a child under 18 years of age shown or heard engaging in sexually explicit conduct with intent to arouse or satisfy the sexual desires or appeal to the prurient interest of the offender or any other person;

(3) being a parent, guardian or other person having custody or control of a child under 18 years of age and knowingly permitting such child to engage in, or assist another to engage in, sexually explicit conduct for any purpose described in subsection (a)(1) or (2); or

(4) promoting any performance that includes sexually explicit conduct by a child under 18 years of age, ***or a person whom the offender believes to be a child under 18 years of age***, knowing the character and content of the performance.

(b)(1) Sexual exploitation of a child as defined in:

(A) Subsection (a)(2) or (a)(3) is a severity level 5, person felony; and

(B) subsection (a)(1) or (a)(4) is a severity level 5, person felony, except as provided in ***subsection (b)(2)***.

(2) ***Sexual exploitation of a child as defined in subsection (a)(1) or (a)(4) or attempt, conspiracy or criminal solicitation to commit sexual exploitation of a child as defined in subsection (a)(1) or (a)(4) is an off-grid person felony, when the offender is 18 years of age or older and the child is under 14 years of age.***

(c) ***If the offender is 18 years of age or older and the child is under 14 years of age, the provisions of:***

(1) ***Subsection (c) of K.S.A. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of sexual exploitation of a child as defined in subsection (a)(1) or (a)(4);***

(2) ***subsection (c) of section K.S.A. 21-5302, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of sexual exploitation of a child as defined in subsection (a)(1) or (a)(4); and***

(3) ***subsection (d) of K.S.A. 21-5303, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of sexual exploitation of a child as defined in subsection (a)(1) or (a)(4).***

(d) As used in this section:

(1) “Sexually explicit conduct” means actual or simulated: Exhibition in the nude; sexual intercourse or sodomy, including genital-genital, oral-genital, anal-genital or oral-anal contact, whether between persons of the same or opposite sex; masturbation; sado-masochistic abuse with the intent of sexual stimulation; or lewd exhibition of the genitals, female breasts or pubic area of any person;

- (2) “promoting” means procuring, transmitting, distributing, circulating, presenting, producing, directing, manufacturing, issuing, publishing, displaying, exhibiting or advertising:
- (A) For pecuniary profit; or
 - (B) with intent to arouse or gratify the sexual desire or appeal to the prurient interest of the offender or any other person;
- (3) “performance” means any film, photograph, negative, slide, book, magazine or other printed or visual medium, any audio tape recording or any photocopy, video tape, video laser disk, computer hardware, software, floppy disk or any other computer related equipment or computer generated image that contains or incorporates in any manner any film, photograph, negative, photocopy, video tape or video laser disk or any play or other live presentation;
- (4) “nude” means any state of undress in which the human genitals, pubic region, buttock or female breast, at a point below the top of the areola, is less than completely and opaquely covered; and
- (5) “visual depiction” means any photograph, film, video picture, digital or computer-generated image or picture, whether made or produced by electronic, mechanical or other means.
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21-5512 Unlawful sexual relations

Amended 2011

- (a) Unlawful sexual relations is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy with a person who is not married to the offender if:
- (1) The offender is an employee or volunteer of the department of corrections, or the employee or volunteer of a contractor who is under contract to provide services for a correctional institution, and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is an inmate;
 - (2) the offender is a parole officer, volunteer for the department of corrections or the employee or volunteer of a contractor who is under contract to provide supervision services for persons on parole, conditional release or postrelease supervision and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is an inmate who has been released on parole, or conditional release or postrelease supervision and the offender ***has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is an inmate who has been released and is currently on parole, conditional release or postrelease supervision;***
 - (3) the offender is a law enforcement officer, an employee of a jail, or the employee of a contractor who is under contract to provide services in a jail and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is confined to such jail;
 - (4) the offender is a law enforcement officer, an employee of a juvenile detention facility or sanctions house, or the employee of a contractor who is under contract to provide services in such facility or sanctions house and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is confined to such facility or sanctions house;
 - (5) the offender is an employee of the juvenile justice authority or the employee of a contractor who is under contract to provide services in a juvenile correctional facility and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is confined to such facility;
 - (6) the offender is an employee of the juvenile justice authority or the employee of a contractor who is under contract to provide direct supervision and offender control services to the juvenile justice authority and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is 16 years of age or older and:
 - (A) Released on conditional release from a juvenile correctional facility under the supervision and control of the juvenile justice authority or juvenile community supervision agency; or
 - (B) placed in the custody of the juvenile justice authority under the supervision and control of the juvenile justice authority or juvenile community supervision agency and the offender has knowledge that the

person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is currently under supervision;

- (7) the offender is an employee of the department of social and rehabilitation services or the employee of a contractor who is under contract to provide services in a social and rehabilitation services institution and the person with whom the offender is engaging in consensual sexual intercourse, not otherwise subject to subsection (a)(2) of K.S.A. 21-5503, and amendments thereto, lewd fondling or touching, or sodomy, not otherwise subject to **subsection (b)(3)(C)** of K.S.A. 21-5504, and amendments thereto, is a person 16 years of age or older who is a patient in such institution;
- (8) the offender is a teacher or a person in a position of authority and the person with whom the offender is engaging in consensual sexual intercourse, not otherwise subject to subsection (a)(3) of K.S.A. 21-5503, or subsection (b)(1) of K.S.A. 21-5506, and amendments thereto, lewd fondling or touching, not otherwise subject to subsection (a) of K.S.A. 21-5506, or subsection (b)(2) or (b)(3) of K.S.A. 21-5506, and amendments thereto, or sodomy, not otherwise subject to subsection (a) of K.S.A. 21-5504, or subsection (b)(1) or (b)(2) of K.S.A. 21-5504, and amendments thereto, is a student enrolled at the school where the offender is employed. If the offender is the parent of the student, the provisions of subsection (b) of K.S.A. 21-5604, and amendments thereto, shall apply, not this subsection;
- (9) the offender is a court services officer or the employee of a contractor who is under contract to provide supervision services for persons under court services supervision and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who has been placed on probation under the supervision and control of court services and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is currently under the supervision of court services; or
- (10) the offender is a community correctional services officer or the employee of a contractor who is under contract to provide supervision services for persons under community corrections supervision and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who has been assigned to a community correctional services program under the supervision and control of community corrections and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is currently under *the* supervision of community corrections.

(b) Unlawful sexual relations *as defined in*:

(1) Subsection (a)(5) is a severity level 4, person felony; and

(2) subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10) is a severity level 5, person felony.

(c) As used in this section:

- (1) "Correctional institution" means the same as in K.S.A. 75-5202, and amendments thereto;
- (2) "inmate" means the same as in K.S.A. 75-5202, and amendments thereto;
- (3) "parole officer" means the same as in K.S.A. 75-5202, and amendments thereto;
- (4) "postrelease supervision" means the same as in K.S.A. 21-6803, and amendments thereto;
- (5) "juvenile detention facility" means the same as in K.S.A. 38-2302, and amendments thereto;
- (6) "juvenile correctional facility" means the same as in K.S.A. 38-2302, and amendments thereto;
- (7) "sanctions house" means the same as in K.S.A. 38-2302, and amendments thereto;
- (8) "institution" means the same as in K.S.A. 76-12a01, and amendments thereto;
- (9) "teacher" means and includes teachers, supervisors, principals, superintendents and any other professional employee in any public or private school offering any of grades kindergarten through 12;
- (10) "community corrections" means the entity responsible for supervising adults and juvenile offenders for confinement, detention, care or treatment, subject to conditions imposed by the court pursuant to the community corrections act, K.S.A. 75-5290, and amendments thereto, and the revised Kansas juvenile justice code, K.S.A. 38-2301 et seq., and amendments thereto;

(11) “court services” means the entity appointed by the district court that is responsible for supervising adults and juveniles placed on probation and misdemeanants placed on parole by district courts of this state; and

(12) “juvenile community supervision agency” means an entity that receives grants for the purpose of providing direct supervision to juveniles in the custody of the juvenile justice authority.

21-5513 Lewd and lascivious behavior

(UPOC §4.1)

(a) Lewd and lascivious behavior is:

(1) Publicly engaging in otherwise lawful sexual intercourse or sodomy with knowledge or reasonable anticipation that the participants are being viewed by others; or

(2) publicly exposing a sex organ or exposing a sex organ in the presence of a person who is not the spouse of the offender and who has not consented thereto, with intent to arouse or gratify the sexual desires of the offender or another.

(b) Lewd and lascivious behavior is a:

(1) Class B nonperson misdemeanor, if committed in the presence of a person 16 or more years of age; and

(2) severity level 9, person felony, if committed in the presence of a person under 16 years of age.

21-5601 Endangering a child; aggravated endangering a child

(UPOC §5.4)

Amended 2011

(a) Endangering a child is knowingly and unreasonably causing or permitting a child under the age of 18 years to be placed in a situation in which the child’s life, body or health may be endangered.

(b) Aggravated endangering a child is:

(1) Recklessly causing or permitting a child under the age of 18 years to be placed in a situation in which the child’s life, body or health is endangered;

(2) causing or permitting such child to be in an environment where the person knows or reasonably should know that any person is distributing, possessing with intent to distribute, manufacturing or attempting to manufacture any methamphetamine, or analog thereof, as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto; or

(3) causing or permitting such child to be in an environment where the person knows or reasonably should know that drug paraphernalia or volatile, toxic or flammable chemicals are stored for the purpose of manufacturing or attempting to manufacture any methamphetamine, or analog thereof, as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto.

(c)(1) Endangering a child is a class A person misdemeanor.

(2) Aggravated endangering a child is a severity level 9, person felony. ***The sentence for a violation of aggravated endangering a child shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.***

(d) Nothing in subsection (a) shall be construed to mean a child is endangered for the sole reason the child’s parent or guardian, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child.

(e) As used in this section:

(1) “Manufacture” means the same as in K.S.A. 21-5701, and amendments thereto; and

(2) “drug paraphernalia” means the same as in K.S.A. 21-5701, and amendments thereto.

21-5602 Abuse of a child

Amended 2011

(a) Abuse of a child is knowingly:

(1) Torturing ***or*** cruelly beating ***any child under the age of 18 years;***

(2) shaking any child under the age of 18 years which results in great bodily harm to the child; or

(3) inflicting cruel and inhuman corporal punishment upon any child under the age of 18 years.

(b) Abuse of a child is a severity level 5, person felony.

(c) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for any form of battery or homicide.

21-5603 Contributing to a child's misconduct or deprivation

(UPOC §5.1)

(a) Contributing to a child's misconduct or deprivation is:

- (1) Knowingly causing or encouraging a child under 18 years of age to become or remain a child in need of care as defined by the revised Kansas code for care of children;
- (2) knowingly causing or encouraging a child under 18 years of age to commit a traffic infraction or an act which, if committed by an adult, would be a misdemeanor or to violate the provisions of K.S.A. 41-727 or subsection (j) of K.S.A. 74-8810, and amendments thereto;
- (3) failure to reveal, upon inquiry by a uniformed or properly identified law enforcement officer engaged in the performance of such officer's duty, any information one has regarding a runaway, with intent to aid the runaway in avoiding detection or apprehension;
- (4) sheltering or concealing a runaway with intent to aid the runaway in avoiding detection or apprehension by law enforcement officers;
- (5) Knowingly causing or encouraging a child under 18 years of age to commit an act which, if committed by an adult, would be a felony; or
- (6) knowingly causing or encouraging a child to violate the terms or conditions of the child's probation or conditional release pursuant to subsection (a)(1) of K.S.A. 38-2361, and amendments thereto.

(b) Contributing to a child's misconduct or deprivation as defined in:

- (1) Subsection (a)(5) is a severity level 7, person felony;
- (2) subsection (a)(4) is a severity level 8, person felony;
- (3) subsection (a)(1), (a)(2), (a)(3) or (a)(6) is a class A nonperson misdemeanor.

(c) A person may be found guilty of contributing to a child's misconduct or deprivation even though no prosecution of the child whose misconduct or deprivation the defendant caused or encouraged has been commenced pursuant to the revised Kansas code for care of children, revised Kansas juvenile justice code or Kansas criminal code.

(d) As used in this section, "runaway" means a child under 18 years of age who is voluntarily absent from:

- (1) The child's home without the consent of the child's parent or other custodian; or
- (2) a court ordered or designated placement, or a placement pursuant to court order, if the absence is without the consent of the person with whom the child is placed or, if the child is placed in a facility, without the consent of the person in charge of such facility or such person's designee.

21-5604 Incest; aggravated incest

(a) Incest is marriage to or engaging in otherwise lawful sexual intercourse or sodomy, as defined in K.S.A. 21-5501, and amendments thereto, with a person who is 18 or more years of age and who is known to the offender to be related to the offender as any of the following biological relatives: Parent, child, grandparent of any degree, grandchild of any degree, brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece.

(b) Aggravated incest is:

- (1) Marriage to a person who is under 18 years of age and who is known to the offender to be related to the offender as any of the following biological, step or adoptive relatives: Child, grandchild of any degree, brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece; or
- (2) engaging in the following acts with a person who is 16 or more years of age but under 18 years of age and who is known to the offender to be related to the offender as any of the following biological, step or adoptive relatives: Child, grandchild of any degree, brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece:

(A) Otherwise lawful sexual intercourse or sodomy as defined by K.S.A. 21-5501, and amendments thereto;
or

(B) any lewd fondling, as described in subsection (a)(1) of K.S.A. 21-5506, and amendments thereto.

(c)(1) Incest is a severity level 10, person felony.

(2) Aggravated incest as defined in:

(A) Subsection (b)(2)(A) is a severity level 5, person felony; and

(B) subsection (b)(1) or (b)(2)(B) is a severity level 7, person felony.

21-5605 Abandonment of a child; aggravated abandonment of a child

(a) Abandonment of a child is leaving a child under the age of 16 years, in a place where such child may suffer because of neglect by the parent, guardian or other person to whom the care and custody of such child shall have been entrusted, when done with intent to abandon such child.

(b) Aggravated abandonment of a child is abandonment of a child, as defined in subsection (a), which results in great bodily harm.

(c)(1) Abandonment of a child is a severity level 8, person felony.

(2) Aggravated abandonment of a child is a severity level 5, person felony.

(d) No parent or other person having lawful custody of an infant shall be prosecuted for a violation of subsection (a), if such parent or person surrenders custody of an infant in the manner provided by K.S.A. 38-2282, and amendments thereto, and if such infant has not suffered bodily harm.

(e) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for any form of battery or homicide.

21-5606 Criminal nonsupport

(a) Criminal nonsupport is:

(1) A parent's failure, neglect or refusal without lawful excuse to provide for the support and maintenance of the parent's child in necessitous circumstances; or

(2) a person's failure, without just cause, to provide for the support of such person's spouse in necessitous circumstances.

(b) Criminal nonsupport is a severity level 10, nonperson felony.

(c) As used in this section, "child" means a child under the age of 18 years and includes an adopted child or a child born out of wedlock whose parentage has been judicially determined or has been acknowledged in writing by the person to be charged with the support of such child.

(d)(1) At any time before the trial, upon petition and notice, the court may enter such temporary order as may seem just providing for support of such child or spouse, and may punish for violation of such order as for contempt.

(2) At any stage of the proceeding, instead of or in addition to imposing the penalty provided, the court, in its discretion and having regard for the circumstances and the financial ability or earning capacity of the defendant, may enter an order which shall be subject to change by the court, as circumstances may require, directing the defendant to pay a certain sum periodically, for a term not exceeding the period during which the obligation to support shall continue, to the spouse, if applicable, the guardian, conservator or custodian of such child or spouse or to an organization or individual approved by the court as trustee. The court shall also have the power to release the defendant on probation for the period so fixed, upon the defendant's entering into a recognizance, with or without surety, in such sum as the court may order and approve. The condition of the recognizance shall be such that if the defendant makes a personal appearance in court whenever ordered to do so and further complies with the terms of such order of support, or of any subsequent modification thereof, then such recognizance shall be void; otherwise the recognizance shall be of full force and effect.

(3) If the court is satisfied by due proof that, at any time during the period while the obligation to support continues, the defendant has violated the terms of such order, the court may forthwith proceed with the trial of the defendant under the original charge, or sentence the defendant under the original conviction, or enforce the suspended sentence as the case may be.

(4) In no prosecution under this section shall any existing statute or rule of law prohibiting the disclosure of confidential communications between husband and wife apply, and both husband and wife shall be competent witnesses to testify against each other to any and all relevant matters, including the parentage of such child.

(e) Failure by a spouse to use resources or income, or both, allowed to the spouse under section 303 of the federal medicare catastrophic coverage act of 1988 or under K.S.A. 39-785 through 39-790, and amendments thereto, as applicable, to provide medical support for the other spouse shall not constitute a violation of subsection (a)(2) so long as the other spouse is receiving medical assistance as defined by K.S.A. 39-702, and amendments thereto.

21-5607 Furnishing alcoholic liquor or cereal malt beverage to a minor; Furnishing alcoholic beverages to a minor for illicit purposes
(UPOC §5.2)

- (a) Furnishing alcoholic liquor or cereal malt beverage to a minor is recklessly, directly or indirectly, buying for or distributing any alcoholic liquor or cereal malt beverage to any minor.
- (b) Furnishing alcoholic beverages to a minor for illicit purposes is, directly or indirectly, buying for or distributing alcoholic liquor or cereal malt beverage to a child under 18 years of age with the intent to commit against such child, or to encourage or induce such child to commit or participate in, any act defined as a crime in article 55 of chapter 21, and amendments thereto, or in K.S.A. 21-5604, and amendments thereto.
- (c)(1) Furnishing alcoholic liquor or cereal malt beverage to a minor is a class B person misdemeanor, for which the minimum fine is \$200.
- (2) Furnishing alcoholic beverages to a minor for illicit purposes is a severity level 9, person felony.
- (d) As used in this section, terms mean the same as in K.S.A. 41-102, 41-2601 and 41-2701, and amendments thereto.
- (e) This section shall not apply to wine intended for use and used by any church or religious organization for sacramental purposes.
- (f) It shall be a defense to a prosecution under subsection (a) if:
- (1) The defendant is a licensed retailer, club, drinking establishment or caterer or holds a temporary permit, or an employee thereof;
 - (2) the defendant sold the alcoholic liquor or cereal malt beverage to the minor with reasonable cause to believe that the minor was 21 or more years of age or of legal age for the consumption of alcoholic liquor or cereal malt beverage; and
 - (3) to purchase the alcoholic liquor or cereal malt beverage, the person exhibited to the defendant a driver's license, Kansas nondriver's identification card or other official or apparently official document, that reasonably appears to contain a photograph of the minor and purporting to establish that such minor was 21 or more years of age or of legal age for the consumption of alcoholic liquor or cereal malt beverage.
- (g) Subsection (a) shall not apply to the furnishing of cereal malt beverage by a parent or legal guardian to such parent's child or such guardian's ward when such furnishing is permitted and supervised by the child or ward's parent or legal guardian.

21-5608 Unlawfully hosting minors consuming alcoholic liquor or cereal malt beverage
(UPOC §5.3)

- (a) Unlawfully hosting minors consuming alcoholic liquor or cereal malt beverage is recklessly permitting a person's residence or any land, building, structure or room owned, occupied or procured by such person to be used by an invitee of such person or an invitee of such person's child or ward, in a manner that results in the unlawful possession or consumption therein of alcoholic liquor or cereal malt beverages by a minor.
- (b) Unlawfully hosting minors consuming alcoholic liquor or cereal malt beverage is a class A person misdemeanor, for which the minimum fine is \$1,000. If the court sentences the offender to perform community or public service work as a condition of probation, as described in subsection (b)(10) of K.S.A. 21-6607, and amendments thereto, the court shall consider ordering the offender to serve the community or public service at an alcohol treatment facility.
- (c) As used in this section, terms mean the same as in K.S.A. 41-102, and amendments thereto.
- (d) The provisions of this section shall not be deemed to create any civil liability for any lodging establishment, as defined in K.S.A. 36-501, and amendments thereto.

Chapter 21
Art. 57 thru 60

21-5701 Definitions - Controlled Substances

As used in K.S.A. 21-5701 through 21-5717, and amendments thereto:

- (a) "Controlled substance" means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.
- (b)(1) "Controlled substance analog" means a substance that is intended for human consumption, and:
 - (A) The chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in or added to the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto;
 - (B) which has a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto; or
 - (C) with respect to a particular individual, which the individual represents or intends to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto.
- (2) "Controlled substance analog" does not include:
 - (A) A controlled substance;
 - (B) a substance for which there is an approved new drug application; or
 - (C) a substance with respect to which an exemption is in effect for investigational use by a particular person under section 505 of the federal food, drug, and cosmetic act (21 U.S.C. 355) to the extent conduct with respect to the substance is permitted by the exemption.
- (c) "Cultivate" means the planting or promotion of growth of five or more plants which contain or can produce controlled substances.
- (d) "Distribute" means the actual, constructive or attempted transfer from one person to another of some item whether or not there is an agency relationship. "Distribute" includes, but is not limited to, sale, offer for sale or any act that causes some item to be transferred from one person to another. "Distribute" does not include acts of administering, dispensing or prescribing a controlled substance as authorized by the pharmacy act of the state of Kansas, the uniform controlled substances act, or otherwise authorized by law.
- (e) "Drug" means:
 - (1) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any supplement to any of them;
 - (2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals;
 - (3) substances, other than food, intended to affect the structure or any function of the body of man or animals; and
 - (4) substances intended for use as a component of any article specified in paragraph (1), (2) or (3). It does not include devices or their components, parts or accessories.
- (f) "Drug paraphernalia" means all equipment and materials of any kind which are used, or primarily intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance and in violation of this act. "Drug paraphernalia" shall include, but is not limited to:
 - (1) Kits used or intended for use in planting, propagating, cultivating, growing or harvesting any species of plant which is a controlled substance or from which a controlled substance can be derived;
 - (2) kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;
 - (3) isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance;

- (4) testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;
- (5) scales and balances used or intended for use in weighing or measuring controlled substances;
- (6) diluents and adulterants, including, but not limited to, quinine hydrochloride, mannitol, mannite, dextrose and lactose, which are used or intended for use in cutting controlled substances;
- (7) separation gins and sifters used or intended for use in removing twigs and seeds from or otherwise cleaning or refining marijuana;
- (8) blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled substances;
- (9) capsules, balloons, envelopes, bags and other containers used or intended for use in packaging small quantities of controlled substances;
- (10) containers and other objects used or intended for use in storing or concealing controlled substances;
- (11) hypodermic syringes, needles and other objects used or intended for use in parenterally injecting controlled substances into the human body;
- (12) objects used or primarily intended or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish, hashish oil, phencyclidine (PCP), methamphetamine or amphetamine into the human body, such as:
 - (A) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
 - (B) water pipes, bongs or smoking pipes designed to draw smoke through water or another cooling device;
 - (C) carburetion pipes, glass or other heat resistant tubes or any other device used or intended to be used, designed to be used to cause vaporization of a controlled substance for inhalation;
 - (D) smoking and carburetion masks;
 - (E) roach clips, objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
 - (F) miniature cocaine spoons and cocaine vials;
 - (G) chamber smoking pipes;
 - (H) carburetor smoking pipes;
 - (I) electric smoking pipes;
 - (J) air-driven smoking pipes;
 - (K) chillums;
 - (L) bongs;
 - (M) ice pipes or chillers;
 - (N) any smoking pipe manufactured to disguise its intended purpose;
 - (O) wired cigarette papers; or
 - (P) cocaine freebase kits.
- (g) "Immediate precursor" means a substance which the board of pharmacy has found to be and by rules and regulations designates as being the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.
- (h) "Isomer" means all enantiomers and diastereomers.
- (i) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance either directly or indirectly or by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container. "Manufacture" does not include the preparation or compounding of a controlled substance by an individual for the individual's own lawful use or the preparation, compounding, packaging or labeling of a controlled substance:

- (1) By a practitioner or the practitioner's agent pursuant to a lawful order of a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or
- (2) by a practitioner or by the practitioner's authorized agent under such practitioner's supervision for the purpose of or as an incident to research, teaching or chemical analysis or by a pharmacist or medical care facility as an incident to dispensing of a controlled substance.
- (j) "Marijuana" means all parts of all varieties of the plant Cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. "Marijuana" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil or cake or the sterilized seed of the plant which is incapable of germination.
- (k) "Minor" means a person under 18 years of age.
- (l) "Narcotic drug" means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:
- (1) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate;
 - (2) any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1) but not including the isoquinoline alkaloids of opium;
 - (3) opium poppy and poppy straw;
 - (4) coca leaves and any salt, compound, derivative or preparation of coca leaves and any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.
- (m) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. "Opiate" does not include, unless specifically designated as controlled under K.S.A. 65-4102, and amendments thereto, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). "Opiate" does include its racemic and levorotatory forms.
- (n) "Opium poppy" means the plant of the species *Papaver somniferum* L. except its seeds.
- (o) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association or any other legal entity.
- (p) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.
- (q) "Possession" means having joint or exclusive control over an item with knowledge of and intent to have such control or knowingly keeping some item in a place where the person has some measure of access and right of control.
- (r) "School property" means property upon which is located a structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12. This definition shall not be construed as requiring that school be in session or that classes are actually being held at the time of the offense or that children must be present within the structure or on the property during the time of any alleged criminal act. If the structure or property meets the above definition, the actual use of that structure or property at the time alleged shall not be a defense to the crime charged or the sentence imposed.
- (s) "Simulated controlled substance" means any product which identifies itself by a common name or slang term associated with a controlled substance and which indicates on its label or accompanying promotional material that the product simulates the effect of a controlled substance.

21-5702 Effective date—Controlled substance laws

- (a) Prosecutions for crimes committed prior to July 1, 2009, shall be governed by the law in effect at the time the crime was committed. For purposes of this section, a crime was committed prior to July 1, 2009, if any element of the crime occurred prior thereto.
- (b) The prohibitions of this act shall apply unless the conduct prohibited is authorized by the pharmacy act of the state of Kansas, the uniform controlled substances act or otherwise authorized by law.

21-5703 Unlawful manufacturing of controlled substances

- (a) It shall be unlawful for any person to manufacture any controlled substance or controlled substance analog.
- (b) Violation or attempted violation of subsection (a) is a drug severity level 1 felony. The provisions of subsection (d) of K.S.A. 21-5301, and amendments thereto, shall not apply to a violation of attempting to unlawfully manufacture any controlled substance pursuant to this section.
- (c) For persons arrested and charged under this section, bail shall be at least \$50,000 cash or surety, unless the court determines, on the record, that the defendant is not likely to re-offend, the court imposes pretrial supervision, or the defendant agrees to participate in a licensed or certified drug treatment program.
- (d) The sentence of a person who violates this section shall not be subject to statutory provisions for suspended sentence, community service work or probation.
- (e) The sentence of a person who violates this section or K.S.A. 65-4159 prior to its repeal, shall not be reduced because these sections prohibit conduct identical to that prohibited by K.S.A. 65-4161 or 65-4163, prior to such sections repeal, or K.S.A. 21-5705, and amendments thereto.

21-5705 Unlawful cultivation or distribution of controlled substances

Amended 2011

- (a) It shall be unlawful for any person to cultivate, distribute or possess with the intent to distribute any of the following controlled substances or controlled substance analogs thereof:
- (1) Opiates, opium or narcotic drugs, or any stimulant designated in subsection (d)(1), (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto;
 - (2) any depressant designated in subsection (e) of K.S.A. 65-4105, subsection (e) of K.S.A. 65-4107, subsection (b) or (c) of K.S.A. 65-4109 or subsection (b) of K.S.A. 65-4111, and amendments thereto;
 - (3) any stimulant designated in subsection (f) of K.S.A. 65-4105, subsection (d)(2), (d)(4) or (f)(2) of K.S.A. 65-4107 or subsection (e) of K.S.A. 65-4109, and amendments thereto;
 - (4) any hallucinogenic drug designated in subsection (d) of K.S.A. 65-4105, subsection (g) of K.S.A. 65-4107 or subsection (g) of K.S.A. 65-4109, and amendments thereto;
 - (5) any substance designated in subsection (g) of K.S.A. 65-4105 and subsection (c), (d), (e), (f) or (g) of K.S.A. 65-4111, and amendments thereto;
 - (6) any anabolic steroids as defined in subsection (f) of K.S.A. 65-4109, and amendments thereto; ***or***
 - (7) any substance designated in subsection (h) of K.S.A. 65-4105, and amendments thereto.***
- (b) It shall be unlawful for any person to distribute or possess with the intent to distribute a controlled substance or a controlled substance analog designated in K.S.A. 65-4113, and amendments thereto.
- (c)(1) Violation of subsection (a) is a drug severity level 3 felony, except that:
- (A) Violation of subsection (a) is a drug severity level 2 felony if the trier of fact makes a finding that the offender is 18 or more years of age and the substance was distributed to or possessed with intent to distribute to a minor or the violation occurs on or within 1,000 feet of any school property;
 - (B) violation of subsection (a)(1) is a drug severity level 2 felony if that person has one prior conviction under subsection (a)(1), under K.S.A. 65-4161 prior to its repeal, or under a substantially similar offense from another jurisdiction; and
 - (C) violation of subsection (a)(1) is a drug severity level 1 felony if that person has two prior convictions under subsection (a)(1), under K.S.A. 65-4161 prior to its repeal, or under a substantially similar offense from another jurisdiction.

(2) Violation of subsection (b) is a class A nonperson misdemeanor, except that, violation of subsection (b) is a drug severity level 4 felony if the substance was distributed to or possessed with the intent to distribute to a child under 18 years of age.

(d) It shall not be a defense to charges arising under this section that the defendant was acting in an agency relationship on behalf of any other party in a transaction involving a controlled substance.

21-5706 Unlawful possession of controlled substances

Amended 2011

(a) It shall be unlawful for any person to possess any opiates, opium or narcotic drugs, or any stimulant designated in subsection (d)(1), (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto, or a controlled substance analog thereof.

(b) It shall be unlawful for any person to possess any of the following controlled substances or controlled substance analogs thereof:

(1) Any depressant designated in subsection (e) of K.S.A. 65-4105, subsection (e) of K.S.A. 65-4107, subsection (b) or (c) of K.S.A. 65-4109 or subsection (b) of K.S.A. 65-4111, and amendments thereto;

(2) any stimulant designated in subsection (f) of K.S.A. 65-4105, subsection (d)(2), (d)(4) or (f)(2) of K.S.A. 65-4107 or subsection (e) of K.S.A. 65-4109, and amendments thereto;

(3) any hallucinogenic drug designated in subsection (d) of K.S.A. 65-4105, subsection (g) of K.S.A. 65-4107 or subsection (g) of K.S.A. 65-4109, and amendments thereto;

(4) any substance designated in subsection (g) of K.S.A. 65-4105 and subsection (c), (d), (e), (f) or (g) of K.S.A. 65-4111, and amendments thereto;

(5) any anabolic steroids as defined in subsection (f) of K.S.A. 65-4109, and amendments thereto;

(6) any substance designated in K.S.A. 65-4113, and amendments thereto; *or*

(7) any substance designated in subsection (h) of K.S.A. 65-4105, and amendments thereto.

(c)(1) Violation of subsection (a) is a drug severity level 4 felony;

(2) violation of subsection (b) is a class A nonperson misdemeanor, except that, violation of subsection (b) (1) through (b)(5) *or* (b)(7) is a drug severity level 4 felony if that person has a prior conviction under such subsection, under K.S.A. 65-4162 prior to its repeal, under a substantially similar offense from another jurisdiction, or under any city ordinance or county resolution for a substantially similar offense if the substance involved was 3, 4-methylenedioxymethamphetamine (MDMA), marijuana as designated in subsection (d) of K.S.A. 65-4105, and amendments thereto, *or any substance designated in subsection (h) of K.S.A. 65-4105, and amendments thereto.*

(d) It shall not be a defense to charges arising under this section that the defendant was acting in an agency relationship on behalf of any other party in a transaction involving a controlled substance.

21-5707 Unlawful manufacture, distribution, cultivation or possession of controlled substances using a communication facility

(a) It shall be unlawful for any person to knowingly or intentionally use any communication facility:

(1) In committing, causing, or facilitating the commission of any felony under K.S.A. 21-5703, 21-5705 or 21-5706, and amendments thereto; or

(2) in any attempt to commit, any conspiracy to commit, or any criminal solicitation of any felony under K.S.A. 21-5703, 21-5705 or 21-5706, and amendments thereto. Each separate use of a communication facility may be charged as a separate offense under this subsection.

(b) Violation of subsection (a) is a nondrug severity level 8, nonperson felony.

(c) As used in this section, “communication facility” means any and all public and private instrumentalities used or useful in the transmission of writing, signs, signals, pictures or sounds of all kinds and includes telephone, wire, radio, computer, computer networks, beepers, pagers and all other means of communication.

21-5708 Unlawfully obtaining and distributing a prescription-only drug

(a) Unlawfully obtaining a prescription-only drug is:

(1) Making, altering or signing of a prescription order by a person other than a practitioner or a mid-level practitioner;

- (2) distribution of a prescription order, knowing it to have been made, altered or signed by a person other than a practitioner or a mid-level practitioner;
 - (3) possession of a prescription order with intent to distribute it and knowing it to have been made, altered or signed by a person other than a practitioner or a mid-level practitioner;
 - (4) possession of a prescription-only drug knowing it to have been obtained pursuant to a prescription order made, altered or signed by a person other than a practitioner or a mid-level practitioner; or
 - (5) providing false information, with the intent to deceive, to a practitioner or mid-level practitioner for the purpose of obtaining a prescription-only drug.
- (b) Unlawfully selling a prescription-only drug is unlawfully obtaining a prescription-only drug, as defined in subsection (a), and:
- (1) Selling the prescription-only drug so obtained;
 - (2) offering for sale the prescription-only drug so obtained; or
 - (3) possessing with intent to sell the prescription-only drug so obtained.
- (c)(1) Unlawfully obtaining a prescription-only drug is a class A nonperson misdemeanor, except that:;
- (2) Unlawfully obtaining a prescription-only drug is a severity level 9, nonperson felony if that person has a prior conviction of paragraph (1) or K.S.A. 21-4214, prior to its repeal.
 - (3) Unlawfully selling a prescription-only drug is a severity level 6, nonperson felony.
- (d) As used in this section:
- (1) “Pharmacist,” “practitioner,” “mid-level practitioner” and “prescription-only drug” shall have the meanings ascribed thereto by K.S.A. 65-1626, and amendments thereto.
 - (2) “Prescription order” means an order transmitted in writing, orally, telephonically or by other means of communication for a prescription-only drug to be filled by a pharmacist. “Prescription order” does not mean a drug dispensed pursuant to such an order.
- (e) The provisions of this section shall not be applicable to prosecutions involving prescription-only drugs which could be brought under K.S.A. 21-5705 or 21-5706, and amendments thereto.

21-5709 Unlawful possession of certain drug precursors and drug paraphernalia

- (a) It shall be unlawful for any person to possess ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with an intent to use the product to manufacture a controlled substance.
- (b) It shall be unlawful for any person to use or possess with intent to use any drug paraphernalia to:
 - (1) Manufacture, cultivate, plant, propagate, harvest, test, analyze or distribute a controlled substance; or
 - (2) store, contain, conceal, inject, ingest, inhale or otherwise introduce a controlled substance into the human body.
- (c) It shall be unlawful for any person to use or possess with intent to use anhydrous ammonia or pressurized ammonia in a container not approved for that chemical by the Kansas department of agriculture.
- (d) It shall be unlawful for any person to purchase, receive or otherwise acquire at retail any compound, mixture or preparation containing more than 3.6 grams of pseudoephedrine base or ephedrine base in any single transaction or any compound, mixture or preparation containing more than nine grams of pseudoephedrine base or ephedrine base within any 30-day period.
- (e)(1) Violation of subsection (a) is a drug severity level 2 felony;
- (2) violation of subsection (b)(1) is a drug severity level 4 felony, except that violation of subsection (b)(1) is a class A nonperson misdemeanor if the drug paraphernalia was used to cultivate fewer than five marijuana plants;
- (3) violation of subsection (b)(2) is a class A nonperson misdemeanor;
- (4) violation of subsection (c) is a drug severity level 4 felony;
- (5) violation of subsection (d) is a class A nonperson misdemeanor.
- (f) For persons arrested and charged under subsection (a) or (c), bail shall be at least \$50,000 cash or surety, unless the court determines, on the record, that the defendant is not likely to reoffend, the court imposes pre-trial supervision or the defendant agrees to participate in a licensed or certified drug treatment program.

21-5710 Unlawful distribution of certain drug precursors and drug paraphernalia

- (a) It shall be unlawful for any person to advertise, market, label, distribute or possess with the intent to distribute:
- (1) Any product containing ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine or their salts, isomers or salts of isomers if the person knows or reasonably should know that the purchaser will use the product to manufacture a controlled substance; or
 - (2) any product containing ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers for indication of stimulation, mental alertness, weight loss, appetite control, energy or other indications not approved pursuant to the pertinent federal over-the-counter drug final monograph or tentative final monograph or approved new drug application.
- (b) It shall be unlawful for any person to distribute, possess with the intent to distribute or manufacture with intent to distribute any drug paraphernalia, knowing or under circumstances where one reasonably should know that it will be used to manufacture or distribute a controlled substance in violation of K.S.A. 21-5701 through 21-5717, and amendments thereto.
- (c) It shall be unlawful for any person to distribute, possess with intent to distribute or manufacture with intent to distribute any drug paraphernalia, knowing or under circumstances where one reasonably should know, that it will be used as such in violation of K.S.A. 21-5701 through 21-5717, and amendments thereto, except subsection (b) of K.S.A. 21-5706, and amendments thereto.
- (d) It shall be unlawful for any person to distribute, possess with intent to distribute or manufacture with intent to distribute any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used as such in violation of subsection (b) of K.S.A. 21-5706, and amendments thereto.
- (e)(1) Violation of subsection (a) is a drug severity level 2 felony;
- (2) violation of subsection (b) is a drug severity level 4 felony, except that violation of subsection (b) is a drug severity level 3 felony if the trier of fact makes a finding that the offender is 18 or more years of age and the offender distributed or caused drug paraphernalia to be distributed to a minor or on or within 1,000 feet of any school property;
- (3) violation of subsection (c) is a severity level 9, nonperson felony, except that violation of subsection (c) is a drug severity level 4 felony if the trier of fact makes a finding that the offender is 18 or more years of age and the offender distributed or caused drug paraphernalia to be distributed to a minor or on or within 1,000 feet of any school property;
- (4) violation of subsection (d) is a class A nonperson misdemeanor, except that violation of subsection (d) is a severity level 9, nonperson felony if the trier of fact makes a finding that the offender is 18 or more years of age and the offender distributed or caused drug paraphernalia to be distributed to a minor or on or within 1,000 feet of any school property.
- (f) For persons arrested and charged under subsection (a), bail shall be at least \$50,000 cash or surety, unless the court determines, on the record, that the defendant is not likely to re-offend, the court imposes pretrial supervision or the defendant agrees to participate in a licensed or certified drug treatment program.
- (g) As used in this section, “or under circumstances where one reasonably should know” that an item will be used in violation of this section, shall include, but not be limited to, the following:
- (1) Actual knowledge from prior experience or statements by customers;
 - (2) inappropriate or impractical design for alleged legitimate use;
 - (3) receipt of packaging material, advertising information or other manufacturer supplied information regarding the item’s use as drug paraphernalia; or
 - (4) receipt of a written warning from a law enforcement or prosecutorial agency having jurisdiction that the item has been previously determined to have been designed specifically for use as drug paraphernalia.

21-5711 Factors to consider when determining what is drug paraphernalia

- (a) In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, the following:
- (1) Statements by an owner or person in control of the object concerning its use;

- (2) prior convictions, if any, of an owner or person in control of the object, under any state or federal law relating to any controlled substance;
 - (3) the proximity of the object, in time and space, to a direct violation of K.S.A. 21-5701 through 21-5717, and amendments thereto;
 - (4) the proximity of the object to controlled substances;
 - (5) the existence of any residue of controlled substances on the object;
 - (6) direct or circumstantial evidence of the intent of an owner or person in control of the object, to deliver it to a person the owner or person in control of the object knows, or should reasonably know, intends to use the object to facilitate a violation of K.S.A. 21-5701 through 21-5717, and amendments thereto. The innocence of an owner or person in control of the object as to a direct violation of K.S.A. 21-5701 through 21-5717, and amendments thereto, shall not prevent a finding that the object is intended for use as drug paraphernalia;
 - (7) oral or written instructions provided with the object concerning its use;
 - (8) descriptive materials accompanying the object which explain or depict its use;
 - (9) national and local advertising concerning the object's use;
 - (10) the manner in which the object is displayed for sale;
 - (11) whether the owner or person in control of the object is a legitimate supplier of similar or related items to the community, such as a distributor or dealer of tobacco products;
 - (12) direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise;
 - (13) the existence and scope of legitimate uses for the object in the community;
 - (14) expert testimony concerning the object's use;
 - (15) any evidence that alleged paraphernalia can or has been used to store a controlled substance or to introduce a controlled substance into the human body as opposed to any legitimate use for the alleged paraphernalia; or
 - (16) advertising of the item in magazines or other means which specifically glorify, encourage or espouse the illegal use, manufacture, distribution or cultivation of controlled substances.
- (b) The fact that an item has not yet been used or did not contain a controlled substance at the time of the seizure is not a defense to a charge that the item was possessed with the intention for use as drug paraphernalia.

21-5712 Unlawful abuse of toxic vapors

- (a) Unlawful abuse of toxic vapors is possessing, buying, using, smelling or inhaling toxic vapors with the intent of causing a condition of euphoria, excitement, exhilaration, stupefaction or dulled senses of the nervous system.
- (b) Unlawful abuse of toxic vapors is a class B nonperson misdemeanor.
- (c) In addition to any sentence or fine imposed, the court shall enter an order which requires that the person enroll in and successfully complete an alcohol and drug safety action education program, treatment program or both such programs as provided in K.S.A. 8-1008, and amendments thereto.
- (d) This section shall not apply to the inhalation of anesthesia or other substances for medical or dental purposes.
- (e) For the purposes of this section, the term "toxic vapors" means vapors from the following substances or products containing such substances:
 - (1) Alcohols, including methyl, isopropyl, propyl or butyl;
 - (2) aliphatic acetates, including ethyl, methyl, propyl or methyl cellosolve acetate;
 - (3) acetone;
 - (4) benzene;
 - (5) carbon tetrachloride;
 - (6) cyclohexane;
 - (7) freons, including freon 11 and freon 12;
 - (8) hexane;
 - (9) methyl ethyl ketone;

- (10) methyl isobutyl ketone;
- (11) naphtha;
- (12) perchlorethylene;
- (13) toluene;
- (14) trichloroethane; or
- (15) xylene.

(f) In a prosecution for a violation of this section, evidence that a container lists one or more of the substances described in subsection (e) as one of its ingredients shall be prima facie evidence that the substance in such container contains toxic vapors.

21-5713 Unlawful distribution or possession of a simulated controlled substance

- (a) It shall be unlawful for any person to distribute, possess with the intent to distribute, or manufacture with the intent to distribute any simulated controlled substance.
- (b) It shall be unlawful for any person to use or possess with intent to use any simulated controlled substance.
- (c)(1) Violation of subsection (a) is a nondrug severity level 9, nonperson felony, except that violation of subsection (a) is a nondrug severity level 7, nonperson felony if the trier of fact makes a finding that the offender is 18 or more years of age and the violation occurred on or within 1,000 feet of any school property; and
- (2) violation of subsection (b) is a class A nonperson misdemeanor.

21-5714 Unlawful representation that noncontrolled substance is controlled substance

- (a) It shall be unlawful for any person to distribute or possess with the intent to distribute any substance which is not a controlled substance:
 - (1) Upon an express representation that the substance is a controlled substance or that the substance is of such nature or appearance that the recipient will be able to distribute the substance as a controlled substance; or
 - (2) under circumstances which would give a reasonable person reason to believe that the substance is a controlled substance.
- (b) Violation of subsection (a) is a class A nonperson misdemeanor, except that violation of subsection (a) is a nondrug severity level 9, nonperson felony if the distributor is 18 or more years of age, distributing to a person under 18 years of age and at least three years older than the person under 18 years of age to whom the distribution is made.
- (c) If any one of the following factors is established, there shall be a presumption that distribution of a substance was under circumstances which would give a reasonable person reason to believe that a substance is a controlled substance:
 - (1) The substance was packaged in a manner normally used for the illegal distribution of controlled substances;
 - (2) the distribution of the substance included an exchange of or demand for money or other consideration for distribution of the substance and the amount of the consideration was substantially in excess of the reasonable value of the substance; or
 - (3) the physical appearance of the capsule or other material containing the substance is substantially identical to a specific controlled substance.

21-5716 Unlawful acts involving proceeds derived from violations of K.S.A. 21-5701 through 21-5717

- (a) It shall be unlawful for any person to receive or acquire proceeds or engage in transactions involving proceeds, known to be derived from a violation of K.S.A. 21-5701 through 21-5717, and amendments thereto, or any substantially similar offense from another jurisdiction. The provisions of this subsection do not apply to any transaction between an individual and that individual's counsel necessary to preserve that individual's right to representation, as guaranteed by section 10 of the bill of rights of the constitution of the state of Kansas and by the sixth amendment to the United States constitution. This exception does not create any presumption against or prohibition of the right of the state to seek and obtain forfeiture of any proceeds derived from a violation of K.S.A. 21-5701 through 21-5717, and amendments thereto.

- (b) It shall be unlawful for any person to distribute, invest, conceal, transport or maintain an interest in or otherwise make available anything of value which that person knows is intended to be used for the purpose of committing or furthering the commission of any crime in K.S.A. 21-5701 through 21-5717, and amendments thereto, or any substantially similar offense from another jurisdiction.
- (c) It shall be unlawful for any person to direct, plan, organize, initiate, finance, manage, supervise or facilitate the transportation or transfer of proceeds known to be derived from commission of any crime in K.S.A. 21-5701 through 21-5717, and amendments thereto, or any substantially similar offense from another jurisdiction.
- (d) It shall be unlawful for any person to conduct a financial transaction involving proceeds derived from commission of any crime in K.S.A. 21-5701 through 21-5717, and amendments thereto, or any substantially similar offense from another jurisdiction, when the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership or control of the proceeds known to be derived from commission of any crime in K.S.A. 21-5701 through 21-5717, and amendments thereto, or any substantially similar offense from another jurisdiction, or to avoid a transaction reporting requirement under state or federal law.
- (e)(1) Violation of this section is a drug severity level 4 felony if the value of the proceeds is less than \$5,000;
- (2) violation of this section is a drug severity level 3 felony if the value of the proceeds is at least \$5,000 but less than \$100,000;
- (3) violation of this section shall be a drug severity level 2 felony if the value of the proceeds is at least \$100,000 but less than \$500,000;
- (4) violation of this section shall be a drug severity level 1 felony if the value of the proceeds is \$500,000 or more.

21-5801 Theft
(UPOC §6.1)

Amended 2011

- (a) Theft is any of the following acts done with intent to permanently deprive the owner of the possession, use or benefit of the owner's property or services:
- (1) Obtaining or exerting unauthorized control over property or services;
 - (2) obtaining control over property or services, by deception;
 - (3) obtaining control over property or services, by threat;
 - (4) obtaining control over stolen property or services knowing the property or services to have been stolen by another; or
 - (5) knowingly dispensing motor fuel into a storage container or the fuel tank of a motor vehicle at an establishment in which motor fuel is offered for retail sale and leaving the premises of the establishment without making payment for the motor fuel.
- (b) **Except as provided in subsection (c)**, theft of:
- (1) Property or services of the value of \$100,000 or more is a severity level 5, nonperson felony;
 - (2) property or services of the value of at least \$25,000 but less than \$100,000 is a severity level 7, nonperson felony;
 - (3) property or services of the value of at least \$1,000 but less than \$25,000 is a severity level 9, nonperson felony;
 - (4) property or services of the value of less than \$1,000 is a class A nonperson misdemeanor, except as provided in subsection (b)(5) or (b)(6);
 - (5) property regardless of the value from three separate mercantile establishments within a period of 72 hours as part of the same act or transaction or in two or more acts or transactions connected together or constituting parts of a common scheme or course of conduct is a severity level 9, nonperson felony; and
 - (6) property of the value of less than \$1,000 is a severity level 9, nonperson felony if committed by a person who has been convicted of theft two or more times.
- (c) As used in this section:

- (1) **“Conviction”** or “convicted” includes being convicted of a violation of K.S.A. 21-3701, prior to its repeal, this section or a municipal ordinance which prohibits the acts that this section prohibits;
- (2) **“regulated scrap metal”** means the same as in K.S.A. 50-6,109, and amendments thereto; and
- (3) **“value”** means the value of the property or, if the property is regulated scrap metal, the cost to restore the site of the theft of such regulated scrap metal to its condition at the time immediately prior to the theft of such regulated scrap metal, whichever is greater.
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21-5802 Theft of property lost, mislaid or delivered by mistake

(UPOC §6.3)

Amended 2011

- (a) Theft of property lost, mislaid or delivered by mistake is obtaining control of property of another by a person who:
- (1) Knows or learns the identity of the owner thereof;
 - (2) fails to take reasonable measures to restore to the owner lost property, mislaid property or property delivered by a mistake; and
 - (3) intends to permanently deprive the owner of the possession, use or benefit of the property.
- (b) Theft of **property** lost, mislaid **or delivered by mistake** of the value of:
- (1) \$100,000 or more is a severity level 5, nonperson felony;
 - (2) at least \$25,000 but less than \$100,000 is a severity level 7, non-person felony;
 - (3) at least \$1,000 but less than \$25,000 is a severity level 9, nonperson felony; and
 - (4) less than \$1,000 is a class A nonperson misdemeanor.
- (c) As used in this section, “property delivered by mistake” includes, but is not limited to, a mistake as to the:
- (1) Nature or amount of the property; or
 - (2) identity of the recipient of the property.
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21-5803 Criminal deprivation of property

(UPOC §6.5)

- (a) Criminal deprivation of property is obtaining or exerting unauthorized control over property, with intent to temporarily deprive the owner of the use thereof, without the owner’s consent but not with the intent of permanently depriving the owner of the possession, use or benefit of such owner’s property.
- (b)(1)(A) Criminal deprivation of property that is a motor vehicle is a:
- (i) Class A nonperson misdemeanor, except as provided in subsection (b)(1)(A)(ii); and
 - (ii) severity level 9, nonperson felony upon a third or subsequent conviction.
- (B) Upon a first conviction of subsection (b)(1)(A), a person shall be sentenced to not less than 30 days nor more than one year’s imprisonment and fined not less than \$100. Upon a second conviction of subsection (b)(1)(A), a person shall be sentenced to not less than 60 days nor more than one year’s imprisonment and fined not less than \$200. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein.
- (2) Criminal deprivation of property other than a motor vehicle is a class A nonperson misdemeanor. Upon a second or subsequent conviction of this paragraph, a person shall be sentenced to not less than 30 days imprisonment and fined not less than \$100.
- (3) The mandatory provisions of this subsection shall not apply to any person where such application would result in a manifest injustice.
- (c) As used in this section, “motor vehicle” means the same as in K.S.A. 8-1437, and amendments thereto.
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21-5804 Prima facie evidence of intent to permanently deprive owner or lessor of possession, use or benefit of property

(UPOC §6.2)

- (a) In any prosecution under K.S.A. 21-5801 through 21-5839, and amendments thereto, the following shall be prima facie evidence of intent to permanently deprive the owner or lessor of property of the possession, use or benefit thereof:

- (1) The giving of a false identification or fictitious name, address or place of employment at the time of obtaining control over the property;
 - (2) the failure of a person who leases or rents personal property to return the same within 10 days after the date set forth in the lease or rental agreement for the return of the property, if notice is given to the person renting or leasing the property to return the property within seven days after receipt of the notice, in which case the subsequent return of the property within the seven-day period shall exempt such transaction from consideration as prima facie evidence as provided in this section;
 - (3) destroying, breaking or opening a lock, chain, key switch, enclosure or other device used to secure the property in order to obtain control over the property;
 - (4) destruction of or substantially damaging or altering the property so as to make the property unusable or unrecognizable in order to obtain control over the property;
 - (5) the failure of a person who leases or rents from a commercial renter a motor vehicle under a written agreement that provides for the return of the motor vehicle to a particular place at a particular time, if notice has been given to the person renting or leasing the motor vehicle to return such vehicle within three calendar days from the date of the receipt or refusal of the demand. In addition, if such vehicle has not been returned after demand, the lessor may notify the local law enforcement agency of the failure of the lessee to return such motor vehicle and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles;
 - (6) the failure of a person who is provided with a use of a vehicle by the owner of the vehicle to return it to the owner pursuant to a written instruction specifying: (A) The time and place to return the vehicle; and (B) that failure to comply may be prosecuted as theft, and such instructions are delivered to the person by the owner at the time the person is provided with possession of the vehicle. In addition, if such vehicle has not been returned pursuant to the specifications in such instructions, the owner may notify the local law enforcement agency of the failure of the person to return such motor vehicle and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles;
 - (7) removing a theft detection device, without authority, from merchandise or disabling such device prior to purchase; or
 - (8) under the provisions of subsection (a)(5) of K.S.A. 21-5801, and amendments thereto, the failure to replace or reattach the nozzle and hose of the pump used for the dispensing of motor fuels or placing such nozzle and hose on the ground or pavement.
- (b) In any prosecution for a misdemeanor under K.S.A. 21-5801, and amendments thereto, in which the object of the alleged theft is a book or other material borrowed from a library, it shall be prima facie evidence of intent to permanently deprive the owner of the possession, use or benefit thereof if the defendant failed to return such book or material within 30 days after receiving notice from the library requesting its return, in which case the subsequent return of the book or material within the 30-day period shall exempt such transaction from consideration as prima facie evidence as provided in this section.
- (c) In a prosecution for theft as defined in K.S.A. 21-5801, and amendments thereto, and such theft is of services, the existence of any of the connections of meters, alterations or use of unauthorized or unmeasured electricity, natural gas, water, telephone service or cable television service, caused by tampering, shall be prima facie evidence of intent to commit theft of services by the person or persons using or receiving the direct benefits from the use of the electricity, natural gas, water, telephone service or cable television service passing through such connections or meters, or using the electricity, natural gas, water, telephone service or cable television service which has not been authorized or measured.
- (d) As used in this section:
- (1) "Notice" means notice in writing and such notice in writing will be presumed to have been given three days following deposit of the notice as registered or certified matter in the United States mail, addressed to such person who has leased or rented the personal property or borrowed the library material at the address as it appears in the information supplied by such person at the time of such leasing, renting or borrowing, or to such person's last known address; and

(2) “tampering” includes, but is not limited to:

- (A) Making a connection of any wire, conduit or device, to any service or transmission line owned by a public or municipal utility, or by a cable television service provider;
- (B) defacing, puncturing, removing, reversing or altering any meter or any connections, for the purpose of securing unauthorized or unmeasured electricity, natural gas, water, telephone service or cable television service;
- (C) preventing any such meters from properly measuring or registering;
- (D) knowingly taking, receiving, using or converting to such person’s own use, or the use of another, any electricity, water or natural gas which has not been measured; or any telephone or cable television service which has not been authorized; or
- (E) causing, procuring, permitting, aiding or abetting any person to do any of the preceding acts.

21-5805 Unlawful acts involving theft detection shielding devices

It shall be unlawful to:

- (a) Manufacture or distribute in any way a laminated or coated bag or device particular to and intentionally marketed for shielding and intended to shield merchandise from detection by electronic or magnetic theft alarm sensor;
- (b) possess any laminated or coated bag or device particular to and designed for shielding and intended to shield merchandise from detection by an electronic or magnetic theft alarm sensor, with the intent to commit theft;
- (c) possess any tool or device designed to allow the removal of any theft detection device from any merchandise with the intent to use such tool to remove any theft detection device from any merchandise without the permission of the merchant or person owning or holding such merchandise; or
- (d) possess one or more fraudulent retail sales receipts or universal product code labels or possessing the device which manufactures fraudulent retail sales receipts or universal product code labels with the intent to cheat or defraud a retailer. A person having possession, custody or control of 15 or more such receipts or labels or such device shall be presumed to possess such items with the intent to cheat or defraud a retailer.
- (e) Violation of this section is a severity level 9, nonperson felony.

21-5807 Burglary; Aggravated burglary

(a) Burglary is, without authority, entering into or remaining within any:

- (1) Dwelling, with intent to commit a felony, theft or sexual battery therein;
- (2) building, manufactured home, mobile home, tent or other structure which is not a dwelling, with intent to commit a felony, theft or sexual battery therein; or
- (3) vehicle, aircraft, watercraft, railroad car or other means of conveyance of persons or property, with intent to commit a felony, theft or sexual battery therein.

(b) Aggravated burglary is, without authority, entering into or remaining within any building, manufactured home, mobile home, tent or other structure, or any vehicle, aircraft, watercraft, railroad car or other means of conveyance of persons or property in which there is a human being with intent to commit a felony, theft or sexual battery therein.

(c)(1) Burglary as defined in:

- (A) Subsection (a)(1) is a severity level 7, person felony;
- (B) subsection (a)(2) is a severity level 7, nonperson felony; and
- (C) subsection (a)(3) is a severity level 9, nonperson felony.

(2) Aggravated burglary is a severity level 5, person felony.

21-5808 Criminal trespass

(UPOC §6.7)

(a) Criminal trespass is entering or remaining upon or in any:

- (1) Land, nonnavigable body of water, structure, vehicle, aircraft or watercraft by a person who knows such person is not authorized or privileged to do so, and:

- (A) Such person enters or remains therein in defiance of an order not to enter or to leave such premises or property personally communicated to such person by the owner thereof or other authorized person;

- (B) such premises or property are posted in a manner reasonably likely to come to the attention of intruders, or are locked or fenced or otherwise enclosed, or shut or secured against passage or entry; or
 - (C) such person enters or remains therein in defiance of a restraining order issued pursuant to K.S.A. 60-1607, 60-3105, 60-3106, 60-3107, 60-31a05 or 60-31a06 or K.S.A. 38-2243, 38-2244 or 38-2255, and amendments thereto, and the restraining order has been personally served upon the person so restrained; or
 - (2) public or private land or structure in a manner that interferes with access to or from any health care facility by a person who knows such person is not authorized or privileged to do so and such person enters or remains thereon or therein in defiance of an order not to enter or to leave such land or structure personally communicated to such person by the owner of the health care facility or other authorized person.
- (b) Criminal trespass is a class B nonperson misdemeanor. Upon a conviction of a violation of subsection (a)(1)(C), a person shall be sentenced to not less than 48 consecutive hours of imprisonment which shall be served either before or as a condition of any grant of probation or suspension, reduction of sentence or parole.
- (c) As used in this section:
- (1) "Health care facility" means any licensed medical care facility, certificated health maintenance organization, licensed mental health center or mental health clinic, licensed psychiatric hospital or other facility or office where services of a health care provider are provided directly to patients; and
 - (2) "health care provider" means any person:
 - (A) licensed to practice a branch of the healing arts;
 - (B) licensed to practice psychology;
 - (C) licensed to practice professional or practical nursing;
 - (D) licensed to practice dentistry;
 - (E) licensed to practice optometry;
 - (F) licensed to practice pharmacy;
 - (G) registered to practice podiatry;
 - (H) licensed as a social worker; or
 - (I) registered to practice physical therapy.
- (d) This section shall not apply to:
- (1) A land surveyor, licensed pursuant to article 70 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto, and such surveyor's authorized agents and employees who enter upon lands, waters and other premises in the making of a survey; or
 - (2) railroad property as defined in K.S.A. 21-5809, and amendments thereto, or nuclear generating facility as defined in K.S.A. 66-2302, and amendments thereto.

21-5809 Trespassing on railroad property

(UPOC §6.7.1)

- (a) Trespassing on railroad property is:
- (1) Entering or remaining on railroad property, without consent of the owner or the owner's agent, knowing that it is railroad property; or
 - (2) recklessly causing in any manner the derailment of a train, railroad car or rail-mounted work equipment.
- (b) Trespassing on railroad property is a:
- (1) Class A nonperson misdemeanor, except as provided in subsection (b)(2);
 - (2) severity level 8, nonperson felony if such trespassing results in a demonstrable monetary loss, damage or destruction of railroad property valued at more than \$1,500.
- (c) Subsection (a) shall not be construed to interfere with the lawful use of a public or private crossing.
- (d) Nothing in this section shall be construed as limiting a representative or member of a labor organization which represents or is seeking to represent the employees of the railroad, from conducting such business as provided under the railway labor act (45 U.S.C. 151, et seq.) and other federal labor laws.
- (e) As used in this section "railroad property" includes, but is not limited to, any train, locomotive, railroad car, caboose, rail-mounted work equipment, rolling stock, work equipment, safety device, switch, electronic

signal, microwave communication equipment, connection, railroad track, rail, bridge, trestle, right-of-way or other property that is owned, leased, operated or possessed by a railroad company.

21-5810 Criminal hunting

(UPOC §6.22)

Amended 2011

- (a) Criminal hunting is knowingly hunting, shooting, fur harvesting, pursuing any bird or animal, or fishing:
- (1) Upon any land or nonnavigable body of water of another, without having first obtained permission of the owner or person in possession of such premises;
 - (2) upon or from any public road, public road right-of-way or railroad right-of-way that adjoins occupied or improved premises, without having first obtained permission of the owner or person in possession of such premises; or
 - (3) upon any land or nonnavigable body of water of another by a person who knows such person is not authorized or privileged to do so, and:
 - (A) Such person remains therein and continues to hunt, shoot, fur harvest, pursue any bird or animal or fish in defiance of an order not to enter or to leave such premises or property personally communicated to such person by the owner thereof or other authorized person; or
 - (B) such premises or property are posted in a manner consistent with K.S. A. 32-1013, and amendments thereto.
- (b) Criminal hunting as defined in:
- (1) Subsection (a)(1) or (a)(2) is a class C misdemeanor. Upon the first conviction of subsection (a)(1) or (a)(2), in addition to any authorized sentence imposed by the court, such court may require the forfeiture of the convicted person's hunting, fishing or fur harvesting license, or all, or, in any case where such person has a combination license, the court may require forfeiture of a part or all of such license and the court may order such person to refrain from hunting, fishing or fur harvesting, or all, for up to one year from the date of such conviction. Upon a second or subsequent conviction of subsection (a)(1) or (a)(2), in addition to any authorized sentence imposed by the court, such court shall require the forfeiture of the convicted person's hunting, fishing or fur harvesting license, or all, or, in any case where such person has a combination license, the court shall require the forfeiture of a part or all of such license and the court shall order such person to refrain from hunting, fishing or fur harvesting, or all, for one year from the date of such conviction. A person licensed to hunt and following or pursuing a wounded game bird or animal upon any land of another without permission of the landowner or person in lawful possession thereof shall not be deemed to be in violation of this provision while in such pursuit, except that this provision shall not authorize a person to remain on such land if instructed to leave by the owner thereof or other authorized person. ***For the purpose of determining whether a conviction is a first, second or subsequent conviction of subsection (a)(1) or (a)(2), "conviction" or "convicted" includes being convicted of a violation of subsection (a) of K.S.A. 21-3728, prior to its repeal, or subsection (a)(1) or (a)(2);*** and
 - (2) subsection (a)(3) is a class B misdemeanor. Upon the first conviction or a diversion agreement of subsection (a)(3), in addition to any authorized sentence imposed by the court, the court shall require forfeiture of such person's hunting, fishing or fur harvesting license, or all, or in the case where such person has a combination license, the court shall require forfeiture of a part or all of such license for six months. Upon the second conviction of subsection (a)(3), ***in*** addition to any authorized sentence imposed by the court, such court shall require the forfeiture of the convicted person's hunting, fishing or fur harvesting license, or all, or in the case where such person has a combination license, the court shall require forfeiture of a part or all of such license for one year. Upon the third or subsequent conviction of subsection (a)(3), in addition to any authorized sentence imposed by the court, such court shall require forfeiture of the convicted person's hunting, fishing or fur harvesting license, or all, or in the case where such person has a combination license, the court shall require forfeiture of a part or all of such license for five years. ***For the purpose of determining whether a conviction is a first, second, third or subsequent conviction of subsection (a)(3), "conviction" or "convicted" includes being convicted of a violation of subsection (b) of K.S.A. 21-3728, prior to its repeal, or subsection (a)(3).***

(c) The court shall notify the department of wildlife and parks of any conviction or diversion for a violation of this section.

21-5812 Arson; Aggravated arson

Amended 2011

(a) Arson is:

(1) Knowingly, by means of fire or explosive damaging any building or property which:

(A) Is a dwelling in which another person has any interest without the consent of such other person;

(B) is a dwelling with intent to injure or defraud an insurer or lienholder;

(C) is not a dwelling in which another person has any interest without the consent of such other person; or

(D) is not a dwelling with intent to injure or defraud an insurer or lienholder;

(2) accidentally, by means of fire or explosive, as a result of manufacturing or attempting to manufacture a controlled substance or controlled substance analog in violation of K.S.A. 21-5703, and amendments thereto, damaging any building or property which is a dwelling; or

(3) accidentally, by means of fire or explosive as a result of manufacturing or attempting to manufacture a controlled substance or controlled substance analog in violation of K.S.A. 21-5703, and amendments thereto, damaging any building or property which is not a dwelling.

(b) Aggravated arson is arson, as *defined* in subsection (a):

(1) Committed upon a building or property in which there is a human being; or

(2) which results in great bodily harm or disfigurement to a firefighter or law enforcement officer in the course of fighting or investigating the fire.

(c)(1) Arson as defined in:

(A) Subsection (a)(1)(A) or (a)(1)(B) is a severity level 6, person felony;

(B) subsection (a)(1)(C), (a)(1)(D) or (a)(3) is a severity level 7, nonperson felony; and

(C) subsection (a)(2) is a severity level 7, person felony.

(2) Aggravated arson as defined in:

(A) Subsection (b)(1) is a:

(i) Severity level 3, person felony, if such crime results in a substantial risk of bodily harm; and

(ii) severity level 6, person felony, if such crime results in no substantial risk of bodily harm; and

(B) subsection (b)(2) is a severity level 3, person felony.

21-5813 Criminal damage to property

(UPOC §6.6)

(a) Criminal damage to property is by means other than by fire or explosive:

(1) Knowingly damaging, destroying, defacing or substantially impairing the use of any property in which another has an interest without the consent of such other person; or

(2) damaging, destroying, defacing or substantially impairing the use of any property with intent to injure or defraud an insurer or lienholder.

(b) Criminal damage to property if the property:

(1) Is damaged to the extent of \$25,000 or more is a severity level 7, nonperson felony;

(2) is damaged to the extent of at least \$1,000 but less than \$25,000 is a severity level 9, nonperson felony; and

(3) damaged is of the value of less than \$1,000 or is of the value of \$1,000 or more and is damaged to the extent of less than \$1,000 is a class B nonperson misdemeanor.

21-5814 Criminal use of an explosive

(a) Criminal use of an explosive is:

(1) Possessing, manufacturing or transporting a commercial explosive, whether or not a person knows or has reason to know it is a commercial explosive; or

(2) possessing, creating or constructing a simulated explosive, destructive device, incendiary, radiological, biological or poison gas, bomb, rocket, missile, mine, grenade, dispersal device or similar simulated device, with intent to intimidate or cause alarm to another person.

(b) Criminal use of an explosive as defined in:

(1) Subsection (a)(1) is a:

(A) Severity level 6, person felony, except as provided in (b)(1)(B);

(B) severity level 5, person felony if:

(i) The possession, manufacture or transportation is intended to be used to commit a crime or is distributed to another with knowledge that such other intends to use such substance to commit a crime;

(ii) a public safety officer is placed at risk to defuse such explosive; or

(iii) the explosive is introduced into a building in which there is another human being; and

(2) subsection (a)(2) is a severity level 8, person felony.

(c) As used in:

(1) Subsection (a)(1), an “explosive” shall not include any legally obtained and transferred commercial explosive by licensed individuals and ammunition and commercially available loading powders and products used as ammunition, and consumer fireworks, as defined in 27 C.F.R. 555.11, in effect on May 17, 2007, unless such consumer fireworks are modified or assembled as a device that deflagrates or explodes when used for a purpose not intended by the manufacturer; and

(2) this section, “commercial explosive” includes chemical compounds that form an explosive; a combination of chemicals, compounds or materials, including, but not limited to, the presence of an acid, a base, dry ice or aluminum foil, that are placed in a container for the purpose of generating a gas or gases to cause a mechanical failure, rupture or bursting of the container; incendiary or explosive material, liquid or solid; detonator; blasting cap; military explosive fuse assembly; squib; electric match or functional improvised fuse assembly; or any completed explosive device commonly known as a pipe bomb or a molotov cocktail.

(d) The provisions of subsection (a)(1) shall not prohibit law enforcement officials, the United States military, public safety officials, accredited educational institutions or licensed or registered businesses, and associated personnel, from engaging in legitimate public safety training, demonstrations or exhibitions requiring the authorized construction or use of such simulated devices or materials.

21-5815 Criminal littering

(a) Criminal littering is recklessly depositing or causing to be deposited any object or substance into, upon or about:

(1) Any public street, highway, alley, road, right-of-way, park or other public place, or any lake, stream, watercourse, or other body of water, except by direction of some public officer or employee authorized by law to direct or permit such acts; or

(2) any private property without the consent of the owner or occupant of such property.

(b) Criminal littering is an unclassified misdemeanor punishable:

(1) Upon a first conviction by a fine of not less than \$250 nor more than \$1,000;

(2) upon a second conviction by a fine of not less than \$1,000 nor more than \$2,000; and

(3) upon a third or subsequent conviction by a fine of not less than \$2,000 nor more than \$4,000.

(c) The provisions of K.S.A. 8-15,102, and amendments thereto, are excepted from the application of this section.

(d) In addition to the fines in subsection (b), a person convicted of littering shall be required to pick up litter for a time prescribed by and at a place within the jurisdiction of the court.

21-5817 Tampering with a traffic signal; Aggravated tampering with a traffic signal (UPOC §6.10)

(a) Tampering with a traffic signal is knowingly manipulating, altering, destroying or removing any light, sign, marker, railroad switching device or other signal device erected or installed for the purpose of controlling or directing the movement of motor vehicles, railroad trains, aircraft or watercraft.

(b) Aggravated tampering with a traffic signal is tampering with a traffic signal as defined in subsection (a) which creates an unreasonable risk of an accident causing the death or great bodily injury of any person.

(c)(1) Tampering with a traffic signal is a class C misdemeanor.

(2) Aggravated tampering with a traffic signal is a severity level 7, nonperson felony.

(d) It shall not be necessary that an accident occurs for a person to be charged and convicted pursuant to subsection (b).

(e) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for violating section K.S.A. 21-5801 or 21-5802, and amendments thereto.

21-5818 Tampering with a pipeline

(a) Tampering with a pipeline is the knowing and unauthorized alteration of or interference with any part of a pipeline.

(b) Tampering with a pipeline is a severity level 6, nonperson felony.

(c) As used in this section:

(1) "Alteration of or interference with any part of a pipeline" includes, but is not limited to, any adjustment, opening, removal, change or destruction of any part of any pipeline; and

(2) "pipeline" means any pipeline, and any related facility, building, structure or equipment, used in gathering, transmission or transportation of natural gas, crude oil, petroleum products or anhydrous ammonia.

"Pipeline" does not include distribution lines that convey natural gas from a gas main to the ultimate consumer.

21-5819 Throwing or otherwise casting objects onto street, highway or railroad right-of-way or railroad property (UPOC §10.16)

Amended 2011

(a) It is unlawful for any person to:

(1) Recklessly throw, push, pitch or otherwise cast any rock, stone or other object, matter or thing onto a street, road, highway, railroad right-of-way, or upon any vehicle, engine or car or any train, locomotive, railroad car, caboose, rail-mounted work equipment or rolling stock thereon;

(2) violate subsection (a) and damage any vehicle, engine or car or any train, locomotive, railroad car, caboose, rail-mounted work equipment or rolling stock lawfully on the street, highway or railroad right-of-way by the thrown or cast rock, stone or other object;

(3) violate subsection (a) and injure another person on the street, road, highway or railroad right-of-way; or

(4) violate subsection (a), damage a vehicle, engine or car or any train, locomotive, railroad car, caboose, rail-mounted work equipment or rolling stock and a person is injured as a result of the cast or thrown object or from injuries incurred as a result of damage to the vehicle in which a person was a passenger when struck by such object.

(b)(1) Violation of subsection (a)(1) is a class B nonperson misdemeanor.

(2) Violation of subsection (a)(2) is a class A nonperson misdemeanor.

(3) Violation of subsection (a)(3) is a severity level 7, person felony.

(4) Violation of subsection (a)(4) is a severity level 6, person felony.

(c) In any case where a vehicle, engine or car or any train, locomotive, railroad car, caboose, rail-mounted work equipment or rolling stock is damaged as a result of a violation of subsection (a), the provisions of this section shall not bar conviction of the accused under any other offense in K.S.A. 21-5801 through 21-5839, and amendments thereto. An accused may be convicted for a violation of any other offense in K.S.A. 21-5801 through 21-5839, and amendments thereto, or this section, but not under both.

(d) In any case where a person dies or sustains bodily injury as a result of a violation of subsection (a), the provisions of this section shall not bar conviction of the accused under any other offense in ***K.S.A. 21-5401 through 21-5428 and 21-6418***, and amendments thereto. An accused may be convicted for a violation of any other offense in ***K.S.A. 21-5401 through 21-5428 and 21-6418***, and amendments thereto, or this section, but not under both.

21-5820 Unlawful posting of political pictures and political advertisements (UPOC §9.13)

(a) Unlawful posting of political pictures and political advertisements is knowingly putting up, affixing or fastening of either or both a political picture or a political advertisement to a telegraph, telephone, electric light or power pole.

(b) Unlawful posting of political pictures and political advertisements is a class C misdemeanor.

21-5821 Giving a worthless check
(UPOC §6.16)

- (a) Giving a worthless check is the making, drawing, issuing or delivering or causing or directing the making, drawing, issuing or delivering of any check on any financial institution for the payment of money or its equivalent with intent to defraud and knowing, at the time of the making, drawing, issuing or delivering of such check that the maker or drawer has no deposit in or credits with the financial institution or has not sufficient funds in, or credits with, the financial institution for the payment of such check in full upon its presentation.
- (b) Giving a worthless check is a:
- (1) Severity level 7, nonperson felony if:
 - (A) The check is drawn for \$25,000 or more; or
 - (B) more than one worthless check is given within a seven-day period and the combined total of the checks is \$25,000 or more;
 - (2) severity level 9, nonperson felony if:
 - (A) The check is drawn for at least \$1,000 but less than \$25,000;
 - (B) more than one worthless check is given within a seven-day period and the combined total of the checks is at least \$1,000 but less than \$25,000; or
 - (C) the person giving the worthless check has, within five years immediately preceding commission of the crime, been convicted of giving a worthless check two or more times; and
 - (3) class A nonperson misdemeanor if the check is drawn for less than \$1,000.
- (c) As used in this section and K.S.A. 21-5822, and amendments thereto:
- (1) "Check" is any check, order or draft on a financial institution;
 - (2) "financial institution" means any bank, credit union, savings and loan association or depository; and
 - (3) "notice" includes oral or written notice to the person entitled thereto.
- (d) In any prosecution against the maker or drawer of a check, payment of which has been refused by the financial institution on account of insufficient funds, the making, drawing, issuing or delivering of such check shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in, or on deposit with, the financial institution:
- (1) Unless the maker or drawer pays the holder thereof the amount due thereon and a service charge not exceeding \$30 for each check, within seven days after notice has been given to the maker or drawer that such check has not been paid by the financial institution. Written notice shall be presumed to have been given when deposited as restricted matter in the United States mail, addressed to the person to be given notice at such person's address as it appears on such check; or
 - (2) if a postdated date is placed on the check without the knowledge or consent of the payee.
- (e) It shall not be a defense to a prosecution under this section that the check upon which such prosecution is based was:
- (1) Postdated, unless such check was presented for payment prior to the postdated date; or
 - (2) given to a payee who had knowledge or had been informed, when the payee accepted such check that the maker did not have sufficient funds in the hands of the financial institution to pay such check upon presentation, unless such check was presented for payment prior to the date the maker informed the payee there would be sufficient funds.
- (f) In addition to all other costs and fees allowed by law, each prosecutor who takes any action under the provisions of this section may collect from the issuer in such action an administrative handling cost, except in cases filed in a court of appropriate jurisdiction. The cost shall not exceed \$10 for each check. If the issuer of the check is convicted in a district court, the administrative handling costs may be assessed as part of the court costs in the matter. The moneys collected pursuant to this subsection shall be deposited into a trust fund which shall be administered by the board of county commissioners. The funds shall be expended only with the approval of the board of county commissioners, but may be used to help fund the normal operating expenses of the county or district attorney's office.

21-5823 Forgery

(a) Forgery is, with intent to defraud:

- (1) Making, altering or endorsing any written instrument in such manner that it purports to have been made, altered or endorsed by another person, either real or fictitious, and if a real person without the authority of such person; or altering any written instrument in such manner that it purports to have been made at another time or with different provisions without the authority of the maker thereof; or making, altering or endorsing any written instrument in such manner that it purports to have been made, altered or endorsed with the authority of one who did not give such authority;
- (2) issuing or distributing such written instrument knowing it to have been thus made, altered or endorsed; or
- (3) possessing, with intent to issue or distribute, any such written instrument knowing it to have been thus made, altered or endorsed.

(b)(1) Forgery is a severity level 8, nonperson felony.

(2) On a first conviction of forgery, in addition to any other sentence imposed, a person shall be fined the lesser of the amount of the forged instrument or \$500.

(3) On a second conviction of forgery, a person shall be required to serve at least 30 days' imprisonment as a condition of probation, and fined the lesser of the amount of the forged instrument or \$1,000.

(4) On a third or subsequent conviction of forgery, a person shall be required to serve at least 45 days' imprisonment as a condition of probation, and fined the lesser of the amount of the forged instrument or \$2,500.

(5) The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the mandatory sentence as provided herein.

(c) In any prosecution under this section, it may be alleged in the complaint or information that it is not known whether a purported person is real or fictitious, and in such case there shall be a rebuttable presumption that such purported person is fictitious.

21-5824 Making false information

(a) Making false information is making, generating, distributing or drawing, or causing to be made, generated, distributed or drawn, any written instrument, electronic data or entry in a book of account with knowledge that such information falsely states or represents some material matter or is not what it purports to be, and with intent to defraud, obstruct the detection of a theft or felony offense or induce official action.

(b) Making false information is a severity level 8, nonperson felony.

21-5826 Destroying a written instrument

(a) Destroying a written instrument is tearing, cutting, burning, erasing, obliterating or destroying a written instrument, in whole or in part, with intent to defraud.

(b) Destroying a written instrument is a severity level 9, nonperson felony.

21-5828 Criminal use of a financial card***(UPOC §6.17)***

(a) Criminal use of a financial card is any of the following acts done with intent to defraud and to obtain money, goods, property or services:

(1) Using a financial card without the consent of the cardholder;

(2) using a financial card, or the number or description thereof, which has been revoked or canceled; or

(3) using a falsified, mutilated, altered or nonexistent financial card or a number or description thereof.

(b) Criminal use of a financial card is a:

(1) Severity level 7, nonperson felony if the money, goods, property or services obtained within any seven-day period are of the value of \$25,000 or more;

(2) Severity level 9, nonperson felony if the money, goods, property or services obtained within any seven-day period are of the value of at least \$1,000 but less than \$25,000; and

(3) class A nonperson misdemeanor if the money, goods, property or services obtained within a seven-day period are of the value of less than \$1,000.

(c) As used in this section:

- (1) "Financial card" means an identification card, plate, instrument, device or number issued by a business organization authorizing the cardholder to purchase, lease or otherwise obtain money, goods, property or services or to conduct other financial transactions; and
 - (2) "cardholder" means the person or entity to whom or for whose benefit a financial card is issued.
 - (d) For the purposes of subsection (a)(2), a financial card shall be deemed canceled or revoked when notice in writing thereof has been received by the named holder thereof as shown on such financial card or by the records of the company.
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21-5833 Automobile master key violation

- (a) Automobile master key violation is:
 - (1) Selling or offering to sell a motor vehicle master key knowing it to be designed to fit the ignition switch of more than one motor vehicle; or
 - (2) possession of a motor vehicle master key designed to fit the ignition switch of more than one motor vehicle by a person knowing it to be such a key.
 - (b) Automobile master key violation is a class C misdemeanor.
 - (c) The provisions of this section shall not apply to a:
 - (1) Law enforcement officer;
 - (2) person who is regularly carrying on the business of garage proprietor or locksmith;
 - (3) owner of two or more vehicles who possess such motor vehicle master key for any or all of the motor vehicles so owned; or
 - (4) person who sells a motor vehicle master key to a person described in subsection (c)(3).
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21-5839 Unlawful acts concerning computers **(UPOC §6.20)**

- (a) It is unlawful for any person to:
 - (1) Knowingly and without authorization access and damage, modify, alter, destroy, copy, disclose or take possession of a computer, computer system, computer network or any other property;
 - (2) use a computer, computer system, computer network or any other property for the purpose of devising or executing a scheme or artifice with the intent to defraud or to obtain money, property, services or any other thing of value by means of false or fraudulent pretense or representation;
 - (3) knowingly exceed the limits of authorization and damage, modify, alter, destroy, copy, disclose or take possession of a computer, computer system, computer network or any other property;
 - (4) knowingly and without authorization, disclose a number, code, password or other means of access to a computer or computer network; or
 - (5) knowingly and without authorization, access or attempt to access any computer, computer system, computer network or computer software, program, documentation, data or property contained in any computer, computer system or computer network.
- (b)(1) Violation of subsections (a)(1), (a)(2) or (a)(3) is a severity level 8, nonperson felony.
- (2) Violation of subsections (a)(4) or (a)(5) is a class A nonperson misdemeanor.
- (c) In any prosecution for a violation of subsections (a)(1), (a)(2) or (a)(3), it shall be a defense that the property or services were appropriated openly and avowedly under a claim of title made in good faith.
- (d) As used in this section:
 - (1) "Access" means to instruct, communicate with, store data in, retrieve data from or otherwise make use of any resources of a computer, computer system or computer network;
 - (2) "computer" means an electronic device which performs work using programmed instruction and which has one or more of the capabilities of storage, logic, arithmetic or communication and includes all input, output, processing, storage, software or communication facilities which are connected or related to such a device in a system or network;
 - (3) "computer network" means the interconnection of communication lines, including microwave or other means of electronic communication, with a computer through remote terminals, or a complex consisting of two or more interconnected computers;

- (4) “computer program” means a series of instructions or statements in a form acceptable to a computer which permits the functioning of a computer system in a manner designed to provide appropriate products from such computer system;
 - (5) “computer software” means computer programs, procedures and associated documentation concerned with the operation of a computer system;
 - (6) “computer system” means a set of related computer equipment or devices and computer software which may be connected or unconnected;
 - (7) “financial instrument” means any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card, debit card or marketable security;
 - (8) “property” includes, but is not limited to, financial instruments, information, electronically produced or stored data, supporting documentation and computer software in either machine or human readable form;
 - (9) “services” includes, but is not limited to, computer time, data processing and storage functions and other uses of a computer, computer system or computer network to perform useful work; and
 - (10) “supporting documentation” includes, but is not limited to, all documentation used in the construction, classification, implementation, use or modification of computer software, computer programs or data.
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21-5903 Perjury

(a) Perjury is intentionally and falsely:

- (1) Swearing, testifying, affirming, declaring or subscribing to any material fact upon any oath or affirmation legally administered in any cause, matter or proceeding before any court, tribunal, public body, notary public or other officer authorized to administer oaths;
- (2) subscribing as true and correct under penalty of perjury any material matter in any declaration, verification, certificate or statement as permitted by K.S.A. 53-601, and amendments thereto; or
- (3) subscribing as true and correct under penalty of perjury any statement as required by K.S.A. 75-5743, and amendments thereto.

(b) Perjury is a:

- (1) Severity level 9, nonperson felony, except as provided in subsection (b)(2); and
 - (2) severity level 7, nonperson felony if the false statement is made upon the trial of a felony charge.
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21-5904 Interference with law enforcement

(UPOC §§7.2 & 7.5)¹

(a) Interference with law enforcement is:

- (1) Falsely reporting to a law enforcement officer or state investigative agency that a crime has been committed, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information; or
- (2) knowingly obstructing, resisting or opposing any person authorized by law to serve process in the service or execution or in the attempt to serve or execute any writ, warrant, process or order of a court, or in the discharge of any official duty.

(b)(1) Interference with law enforcement as defined in subsection (a)(1) is a class A misdemeanor.

(2) Interference with law enforcement as defined in subsection (a)(2) is a:

- (A) Severity level 9, nonperson felony in the case of a felony, or resulting from parole or any authorized disposition for a felony; and
- (B) class A nonperson misdemeanor in the case of a misdemeanor, or resulting from any authorized disposition for a misdemeanor, or a civil case.

¹**Note:** UPOC §7.2 relates to subsection (a)(2), UPOC §7.5 relates to subsection (a)(1).

21-5905 Interference with the judicial process

(UPOC §§7.1 & 7.4)¹

(a) Interference with the judicial process is:

- (1) Communicating with any judicial officer in relation to any matter which is or may be brought before such judge, magistrate, master or juror with intent improperly to influence such officer;

- (2) committing any of the following acts, with intent to influence, impede or obstruct the finding, decision, ruling, order, judgment or decree of such judicial officer or prosecutor on any matter then pending before the officer or prosecutor:
- (A) Communicating in any manner a threat of violence to any judicial officer or any prosecutor;
 - (B) harassing a judicial officer or a prosecutor by repeated vituperative communication; or
 - (C) picketing, parading or demonstrating near such officer's or prosecutor's residence or place of abode;
- (3) picketing, parading or demonstrating in or near a building housing a judicial officer or a prosecutor with intent to impede or obstruct the finding, decision, ruling, order, judgment or decree of such judicial officer or prosecutor on any matter then pending before the officer or prosecutor;
- (4) knowingly accepting or agreeing to accept anything of value as consideration for a promise:
- (A) Not to initiate or aid in the prosecution of a person who has committed a crime; or
 - (B) to conceal or destroy evidence of a crime; or
- (5) when performed by a person summoned or sworn as a juror in any case:
- (A) Intentionally soliciting, accepting or agreeing to accept from another any benefit as consideration to wrongfully give a verdict for or against any party in any proceeding, civil or criminal;
 - (B) intentionally promising or agreeing to wrongfully give a verdict for or against any party in any proceeding, civil or criminal; or
 - (C) knowingly receiving any evidence or information from anyone in relation to any matter or cause for the trial of which such juror has been or will be sworn, without the authority of the court or officer before whom such juror has been summoned, and without immediately disclosing the same to such court or officer.
- (b) Interference with the judicial process as defined in:
- (1) Subsection (a)(1) is a severity level 9, nonperson felony;
 - (2) subsection (a)(2) and (a)(3) is a class A nonperson misdemeanor;
 - (3) subsection (a)(4) is a:
 - (A) Severity level 8, nonperson felony if the crime is a felony; or
 - (B) class A nonperson misdemeanor if the crime is a misdemeanor;
 - (4) subsection (a)(5)(A) is a severity level 7, nonperson felony; and
 - (5) subsection (a)(5)(B) or (a)(5)(C) is a severity level 9, nonperson felony.
- (c) Nothing in this section shall limit or prevent the exercise by any court of this state of its power to punish for contempt.

¹**Note:** UPOC §7.1 relates to subsection (a)(4), UPOC §7.4 relates to subsections (a)(1), (a)(2) and (a)(3).

21-5907 Simulating legal process **(UPOC §7.7)**

- (a) Simulating legal process is:
- (1) Distributing to another any document which simulates or purports to be, or is designed to cause others to believe it to be, a summons, petition, complaint or other judicial process, with intent thereby to induce payment of a claim; or
 - (2) printing or distributing any such document, knowing that it shall be so used.
- (b) Simulating legal process is a class A nonperson misdemeanor.
- (c) This section shall not apply to the printing or distribution of blank forms of legal documents intended for actual use in judicial proceedings.

21-5908 Definitions—Witness or victim intimidation

As used in K.S.A. 21-5909 and 21-5910, and amendments thereto:

- (a) “Civil injury or loss” means any injury or loss for which a civil remedy is provided under the laws of this state, any other state or the United States;
- (b) “victim” means any individual:
 - (1) Against whom any crime under the laws of this state, any other state or the United States is being, has been or is attempted to be committed; or
 - (2) who suffers a civil injury or loss; and

(c) "witness" means any individual:

- (1) Who has knowledge of the existence or nonexistence of facts relating to any civil or criminal trial, proceeding or inquiry authorized by law;
- (2) whose declaration under oath is received or has been received as evidence for any purpose;
- (3) who has reported any crime or any civil injury or loss to any law enforcement officer, prosecutor, probation officer, parole officer, correctional officer, community correctional services officer or judicial officer;
- (4) who has been served with a subpoena issued under the authority of a municipal court or any court or agency of this state, any other state or the United States; or
- (5) who is believed by the offender to be an individual described in this subsection.

21-5909 Intimidation of a witness or victim; aggravated intimidation of a witness or victim

(a) Intimidation of a witness or victim is preventing or dissuading, or attempting to prevent or dissuade, with an intent to vex, annoy, harm or injure in any way another person or an intent to thwart or interfere in any manner with the orderly administration of justice:

- (1) Any witness or victim from attending or giving testimony at any civil or criminal trial, proceeding or inquiry authorized by law; or
- (2) any witness, victim or person acting on behalf of a victim from:
 - (A) Making any report of the victimization of a victim to any law enforcement officer, prosecutor, probation officer, parole officer, correctional officer, community correctional services officer or judicial officer;
 - (B) causing a complaint, indictment or information to be sought and prosecuted, or causing a violation of probation, parole or assignment to a community correctional services program to be reported and prosecuted, and assisting in its prosecution;
 - (C) causing a civil action to be filed and prosecuted and assisting in its prosecution; or
 - (D) arresting or causing or seeking the arrest of any person in connection with the victimization of a victim.

(b) Aggravated intimidation of a witness or victim is intimidation of a witness or victim, as defined in subsection (a), when the:

- (1) Act is accompanied by an expressed or implied threat of force or violence against a witness, victim or other person or the property of any witness, victim or other person;
- (2) act is in furtherance of a conspiracy;
- (3) the act is committed by a person who has been previously convicted of corruptly influencing a witness or has been convicted of a violation of this section or any federal or other state's statute which, if the act prosecuted was committed in this state, would be a violation of this section;
- (4) witness or victim is under 18 years of age; or
- (5) act is committed for pecuniary gain or for any other consideration by a person acting upon the request of another person.

(c)(1) Intimidation of a witness or victim is a class B person misdemeanor.

(2) Aggravated intimidation of a witness or victim is a severity level 6, person felony.

21-5911 Escape from custody; aggravated escape from custody

(UPOC §7.3)

Amended 2011

(a) Escape from custody is escaping while held in custody on a:

- (1) Charge or conviction of a misdemeanor;
- (2) charge or adjudication as a juvenile offender where the act, if committed by an adult, would constitute a misdemeanor; or
- (3) commitment to the state security hospital as provided in K.S.A. 22-3428, and amendments thereto, based on a finding that the person committed an act constituting a misdemeanor or by a person 18 years of age or over who is being held in custody on a adjudication of a misdemeanor.

(b) Aggravated escape from custody is:

- (1) Escaping while held in custody:
 - (A) Upon a charge or conviction of a felony;

- (B) upon a charge or adjudication as a juvenile offender where the act, if committed by an adult, would constitute a felony;
 - (C) prior to or upon a finding of probable cause for evaluation as a sexually violent predator as provided in K.S.A. 59-29a05, and amendments thereto;
 - (D) upon commitment to a treatment facility as a sexually violent predator as provided in K.S.A. 59-29a01 et seq., and amendments thereto;
 - (E) upon a commitment to the state security hospital as provided in K.S.A. 22-3428, and amendments thereto, based on a finding that the person committed an act constituting a felony;
 - (F) by a person 18 years of age or over who is being held on an adjudication of a felony; or
 - (G) upon incarceration at a state correctional institution while in the custody of the secretary of corrections.
- (2) Escaping effected or facilitated by the use of violence or the threat of violence against any person while held in custody:
- (A) On a charge or conviction of any crime;
 - (B) on a charge or adjudication as a juvenile offender where the act, if committed by an adult, would constitute a felony;
 - (C) prior to or upon a finding of probable cause for evaluation as a sexually violent predator as provided in K.S.A. 59-29a05, and amendments thereto;
 - (D) upon commitment to a treatment facility as a sexually violent predator as provided in K.S.A. 59-29a01 et seq., and amendments thereto;
 - (E) upon a commitment to the state security hospital as provided in K.S.A. 22-3428, and amendments thereto, based on a finding that the person committed an act constituting any crime;
 - (F) by a person 18 years of age or over who is being held on a charge or adjudication of a misdemeanor *or* felony; or
 - (G) upon incarceration at a state correctional institution while in the custody of the secretary of corrections.
- (c)(1) Escape from custody is a class A nonperson misdemeanor.
- (2) Aggravated escape from custody as defined in:
- (A) Subsection (b)(1)(A), (b)(1)(C), (b)(1)(D), (b)(1)(E) or (b)(1)(F) is a severity level 8, nonperson felony;
 - (B) subsection (b)(1)(B) *or* (b)(1)(G) is a severity level 5, nonperson felony;
 - (C) subsection (b)(2)(A), (b)(2)(C), (b)(2)(D), (b)(2)(E) or (b)(2)(F) is a severity level 6, *person* felony;
- and*
- (D) subsection (b)(2)(B) or (b)(2)(G) is a severity level 5, person felony.**
- (d) As used in this section and *K.S.A. 21-5912*, and amendments thereto:
- (1) “Custody” means arrest; detention in a facility for holding persons charged with or convicted of crimes or charged or adjudicated as a juvenile offender; detention for extradition or deportation; detention in a hospital or other facility pursuant to court order, imposed as a specific condition of probation or parole or imposed as a specific condition of assignment to a community correctional services program; commitment to the state security hospital as provided in K.S.A. 22-3428, and amendments thereto; or any other detention for law enforcement purposes. “Custody” does not include general supervision of a person on probation or parole or constraint incidental to release on bail;
 - (2) “escape” means departure from custody without lawful authority or failure to return to custody following temporary leave lawfully granted pursuant to express authorization of law or order of a court;
 - (3) “juvenile offender” means the same as in K.S.A. 38-2302, and amendments thereto; and
 - (4) “state correctional institution” means the same as in K.S.A. 75-5202, and amendments thereto.

21-5913 Obstructing apprehension or prosecution

- (a) Obstructing apprehension or prosecution is knowingly harboring, concealing or aiding any person who:
- (1) Has committed or who has been charged with committing a felony or misdemeanor under the laws of this state, other than a violation of K.S.A. 22-4903, and amendments thereto, or another state or the United States with intent that such person shall avoid or escape from arrest, trial, conviction or punishment for such felony or misdemeanor; or

(2) is required to register under the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, and who is not in compliance with the requirements of such act with intent that such person shall avoid or escape from registration, arrest, trial, conviction, punishment or any criminal charges arising from the person's failure to comply with the requirements of such act.

(b) Obstructing apprehension or prosecution as defined in:

(1) Subsection (a)(1) is a:

(A) Severity level 8, nonperson felony if the person who is harbored, concealed or aided has committed or has been charged with committing a felony; and

(B) class C misdemeanor if the person who is aided has committed or has been charged with committing a misdemeanor; and

(2) subsection (a)(2) is a severity level 5, person felony.

21-5914 Traffic in contraband in a correctional institution

Amended 2011

(a) Traffic in contraband in a correctional institution or care and treatment facility is, without the consent of the administrator of the correctional institution or care and treatment facility:

(1) Introducing or attempting to introduce any item into or upon the grounds of any correctional institution or care and treatment facility;

(2) taking, sending, attempting to take or attempting to send any item from any correctional institution or care and treatment facility;

(3) any unauthorized possession of any item while in any correctional institution or care and treatment facility;

(4) distributing any item within any correctional institution or care and treatment facility;

(5) supplying to another who is in lawful custody any object or thing adapted or designed for use in making an escape; or

(6) introducing into an institution in which a person is confined any object or thing adapted or designed for use in making any escape.

(b) Traffic in contraband in a correctional institution or care and treatment facility *is a:*

(1) Severity level 6, nonperson felony, except as provided in subsection (b)(2) or (b)(3);

(2) severity level 5, nonperson felony if such items are:

(A) Firearms, ammunition, explosives or a controlled substance which is defined in K.S.A. 21-5701, and amendments thereto, except as provided in subsection (b)(3);

(B) defined as contraband by rules and regulations adopted by the secretary of corrections, in a state correctional institution or facility by an employee of a state correctional institution or facility, except as provided in subsection (b)(3);

(C) defined as contraband by rules and regulations adopted by the secretary of social and rehabilitation services, in a care and treatment facility by an employee of a care and treatment facility, except as provided in subsection (b)(3); or

(D) defined as contraband by rules and regulations adopted by the commissioner of the juvenile justice authority, in a juvenile correctional facility by an employee of a juvenile correctional facility, except as provided by subsection (b)(3); and

(3) severity level 4, nonperson felony if:

(A) Such items are firearms, ammunition or explosives, in a correctional institution by an employee of a correctional institution or in a care and treatment facility by an employee of a care and treatment facility; or

(B) a violation of (a)(5) or (a)(6) by an employee or volunteer of the department of corrections, or the employee or volunteer of a contractor who is under contract to provide services to the department of corrections.

(c) The provisions of subsection (b)(2)(A) shall not apply to the possession of a firearm or ammunition by a person licensed under the personal and family protection act, K.S.A. 75-7c01 et seq., and amendments thereto, in a parking lot open to the public if the firearm or ammunition is carried on the person while

in a vehicle or while securing the firearm or ammunition in the vehicle, or stored out of plain view in a locked but unoccupied vehicle.

(d) As used in this section:

- (1) "Correctional institution" means any state correctional institution or facility, conservation camp, state security hospital, juvenile correctional facility, community correction center or facility for detention or confinement, juvenile detention facility or jail;
- (2) "care and treatment facility" means the state security hospital provided for under K.S.A. 76-1305 et seq., and amendments thereto, and a facility operated by the department of social and rehabilitation services for the purposes provided for under K.S.A. 59-29a02 et seq., and amendments thereto; and
- (3) "lawful custody" means the same as in **K.S.A. 21-5912**, and amendments thereto.

21-5915 Failure to appear; aggravated failure to appear

- (a) Failure to appear is knowingly incurring a forfeiture of an appearance bond and failing to surrender oneself within 30 days following the date of such forfeiture by one who is charged with a misdemeanor and has been released on bond for appearance before any court of this state, other than the municipal court of a city, for trial or other proceeding prior to conviction, or knowingly incurring a forfeiture of an appearance bond and failing to surrender oneself within 30 days after such person's conviction of a misdemeanor has become final by one who has been released on an appearance bond by any court of this state.
- (b) Aggravated failure to appear is knowingly incurring a forfeiture of an appearance bond and failing to surrender oneself within 30 days following the date of such forfeiture by one who is charged with a felony and has been released on bond for appearance before any court of this state, or knowingly incurring a forfeiture of an appearance bond and failing to surrender oneself within 30 days after oneself's conviction of a felony has become final by one who has been released on an appearance bond by any court of this state.
- (c)(1) Failure to appear is a class B nonperson misdemeanor.
- (2) Aggravated failure to appear is a severity level 10, nonperson felony.
- (d) The provisions of subsection (a) shall not apply to any person who forfeits a cash bond supplied pursuant to law upon an arrest for a traffic infraction or cigarette or tobacco infraction.
- (e) Any person who is released upon the person's own recognizance, without surety, or who fails to appear in response to a summons or traffic citation, shall be deemed a person released on bond for appearance within the meaning of subsection (a).

21-5917 False impersonation; aggravated false impersonation

(UPOC §7.11)

- (a) False impersonation is representing oneself to be a public officer, public employee or a person licensed to practice or engage in any profession or vocation for which a license is required by the laws of the state of Kansas, with knowledge that such representation is false.
- (b) Aggravated false impersonation is falsely representing or impersonating another and in such falsely assumed character:
 - (1) Becoming bail or security, or acknowledging any recognizance, or executing any bond or other instrument as bail or security, for any party in any proceeding, civil or criminal, before any court or officer authorized to take such bail or security;
 - (2) confessing any judgment;
 - (3) acknowledging the execution of any conveyance of property, or any other instrument which by law may be recorded; or
 - (4) doing any other act in the course of a suit, proceeding or prosecution whereby the person who is represented or impersonated may be made liable to the payment of any debt, damages, costs or sum of money, or such person's rights or interests may be in any manner affected.
- (c)(1) False impersonation is a class B nonperson misdemeanor.
- (2) Aggravated false impersonation is a severity level 9, nonperson felony.

21-5918 Dealing in false identification documents; vital records identity fraud

- (a) Dealing in false identification documents is knowingly reproducing, manufacturing, selling or offering for sale any identification document which:

- (1) Simulates, purports to be or is designed so as to cause others reasonably to believe it to be an identification document; and
 - (2) bears a fictitious name or other false information.
- (b) Vital records identity fraud related to birth, death, marriage and divorce certificates is:
- (1) Supplying false information intending that the information be used to obtain a certified copy of a vital record;
 - (2) making, counterfeiting, altering, amending or mutilating any certified copy of a vital record without lawful authority and with the intent to deceive; or
 - (3) obtaining, possessing, using, selling or furnishing or attempting to obtain, possess or furnish to another a certified copy of a vital record, with the intent to deceive.
- (c)(1) Vital records identity fraud is a severity level 8, nonperson felony.
- (2) Dealing in false identification documents is a severity level 8, nonperson felony.
- (d) The provisions of this section shall not apply to:
- (1) A person less than 21 years of age who uses the identification document of another person to acquire an alcoholic beverage, as defined in K. S.A. 8-1599, and amendments thereto; or
 - (2) a person less than 18 years of age who uses the identification documents of another person to acquire:
 - (A) Cigarettes or tobacco products, as defined in K.S.A. 79-3301, and amendments thereto;
 - (B) a periodical, videotape or other communication medium that contains or depicts nudity;
 - (C) admittance to a performance, live or film, that prohibits the attendance of the person based on age; or
 - (D) an item that is prohibited by law for use or consumption by such person.
- (e) As used in this section, "identification document" means any card, certificate or document or banking instrument including, but not limited to, credit or debit card, which identifies or purports to identify the bearer of such document, whether or not intended for use as identification, and includes, but is not limited to, documents purporting to be drivers' licenses, nondrivers' identification cards, certified copies of birth, death, marriage and divorce certificates, social security cards and employee identification cards.
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21-5920 Tampering with a public record

(UPOC §7.8)

- (a) Tampering with a public record is knowingly and without lawful authority altering, destroying, defacing, removing or concealing any public record.
 - (b) Tampering with a public record is a class A nonperson misdemeanor.
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21-5921 Tampering with public notice

(UPOC §7.9)

- (a) Tampering with public notice is knowingly and without lawful authority altering, defacing, destroying, removing or concealing any public notice posted according to law, during the time such notice is required or authorized to remain posted.
 - (b) Tampering with public notice is a class C misdemeanor.
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21-5922 Interference with the conduct of public business in public buildings; aggravated interference with the conduct of public business

(UPOC §7.12)

Amended 2011

- (a) Interference with the conduct of public business in public buildings is:
 - (1) Conduct at or in any public building owned, operated or controlled by the state or any of its political subdivisions so as to knowingly deny to any public official, public employee or any invitee on such premises, the lawful rights of such official, employee or invitee to enter, to use the facilities or to leave any such public building;
 - (2) knowingly impeding any public official or employee in the lawful performance of duties or activities through the use of restraint, abduction, coercion or intimidation or by force and violence or threat thereof;
 - (3) knowingly refusing or failing to leave any such public building upon being requested to do so by the chief administrative officer, or such officer's designee, charged with maintaining order in such public building, if such person is committing, threatens to commit or incites others to commit, any act which did or

would if completed, disrupt, impair, interfere with or obstruct the lawful missions, processes, procedures or functions being carried on in such public building;

(4) knowingly impeding, disrupting or hindering the normal proceedings of any meeting or session conducted by any judicial or legislative body or official at any public building by any act of intrusion into the chamber or other areas designated for the use of the body or official conducting such meeting or session, or by any act designed to intimidate, coerce or hinder any member of such body or any official engaged in the performance of duties at such meeting or session; or

(5) knowingly impeding, disrupting or hindering, by any act of intrusion into the chamber or other areas designed for the use of any executive body or official, the normal proceedings of such body or official.

(b) Aggravated interference with the conduct of public business is interference with the conduct of public business *in public buildings*, as defined in subsection (a), when in possession of any firearm or weapon as described in *K.S.A. 21-6301 or 21-6302*, and amendments thereto.

(c)(1) Interference with the conduct of public business in public buildings is a class A nonperson misdemeanor;

(2) Aggravated interference with the conduct of public business is a level 6, person felony.

21-5923 Unlawful disclosure of authorized interception of wire, oral or electronic communications

(a) Unlawful disclosure of authorized interception of wire, oral or electronic communications is, with the intent to obstruct, impede or prevent such authorized interception, communicating to any person or making public in any way, other than as provided by law:

(1) The existence of an application or order for such interception issued pursuant to K.S.A. 22-2516, and amendments thereto; or

(2) the resulting investigation.

(b) Unlawful disclosure of authorized interception of wire, oral or electronic communications is a severity level 10, nonperson felony.

21-5924 Violation of a protective order (UPOC §3.8.1)

(a) Violation of a protective order is knowingly violating:

(1) A protection from abuse order issued pursuant to K.S.A. 60-3105, 60-3106 and 60-3107, and amendments thereto;

(2) a protective order issued by a court or tribunal of any state or Indian tribe that is consistent with the provisions of 18 U.S.C. 2265, and amendments thereto;

(3) a restraining order issued pursuant to K.S.A. 38-2243, 38-2244 and 38-2255 and K.S.A. 60-1607, and amendments thereto;

(4) an order issued in this or any other state as a condition of pretrial release, diversion, probation, suspended sentence, postrelease supervision or at any other time during the criminal case that orders the person to refrain from having any direct or indirect contact with another person;

(5) an order issued in this or any other state as a condition of release after conviction or as a condition of a supersedeas bond pending disposition of an appeal, that orders the person to refrain from having any direct or indirect contact with another person; or

(6) a protection from stalking order issued pursuant to K.S.A. 60-31a05 or 60-31a06, and amendments thereto.

(b) Violation of a protective order is a class A person misdemeanor.

(c) No protective order, as set forth in this section, shall be construed to prohibit an attorney, or any person acting on such attorney's behalf, who is representing the defendant in any civil or criminal proceeding, from contacting the protected party for a legitimate purpose within the scope of the civil or criminal proceeding. The attorney, or person acting on such attorney's behalf, shall be identified in any such contact.

(d) As used in this section, "order" includes any order issued by a municipal or district court.

21-6001 Bribery

(a) Bribery is:

- (1) Offering, giving or promising to give, directly or indirectly, to any person who is a public officer, candidate for public office or public employee any benefit, reward or consideration to which the person is not legally entitled with intent thereby to influence the person with respect to the performance of the person's powers or duties as a public officer or employee; or
 - (2) the act of a person who is a public officer, candidate for public office or public employee, in requesting, receiving or agreeing to receive, directly or indirectly, any benefit, reward or consideration given with intent that the person will be so influenced.
- (b) Bribery is a severity level 7, nonperson felony. Upon conviction of bribery, a public officer or public employee shall forfeit the person's office or employment. Notwithstanding an expungement of the conviction pursuant to K.S.A. 21-6614, and amendments thereto, any person convicted of bribery under the provisions of this section shall be forever disqualified from holding public office or public employment in this state.

21-6002 Official misconduct

- (a) Official misconduct is any of the following acts committed by a public officer or employee in the officer or employee's public capacity or under color of the officer or employee's office or employment:
- (1) Knowingly using or authorizing the use of any aircraft, as defined by K.S.A. 3-201, and amendments thereto, vehicle, as defined by K.S.A. 8-1485, and amendments thereto, or vessel, as defined by K.S.A. 32-1102, and amendments thereto, under the officer's or employee's control or direction, or in the officer's or employee's custody, exclusively for the private benefit or gain of the officer or employee or another;
 - (2) knowingly failing to serve civil process when required by law;
 - (3) using confidential information acquired in the course of and related to the officer's or employee's office or employment for the private benefit or gain of the officer or employee or another or to intentionally cause harm to another;
 - (4) except as authorized by law, with the intent to reduce or eliminate competition among bidders or prospective bidders on any contract or proposed contract:
 - (A) Disclosing confidential information regarding proposals or communications from bidders or prospective bidders on any contract or proposed contract;
 - (B) accepting any bid or proposal on a contract or proposed contract after the deadline for acceptance of such bid or proposal; or
 - (C) altering any bid or proposal submitted by a bidder on a contract or proposed contract;
 - (5) except as authorized by law, knowingly destroying, tampering with or concealing evidence of a crime; or
 - (6) knowingly submitting to a governmental entity a claim for expenses which is false or duplicates expenses for which a claim is submitted to such governmental entity, another governmental or private entity.
- (b)(1) Official misconduct as defined in:
- (A) Subsections (a)(1) through (a)(4) is a class A nonperson misdemeanor;
 - (B) subsection (a)(5) is a:
 - (i) Severity level 8, nonperson felony if the evidence is evidence of a crime which is a felony; and
 - (ii) class A nonperson misdemeanor if the evidence is evidence of a crime which is a misdemeanor; and
 - (C) subsection (a)(6) if the claim is:
 - (i) \$25,000 or more is a severity level 7, nonperson felony;
 - (ii) at least \$1,000 but less than \$25,000 is a severity level 9, nonperson felony; and
 - (iii) less than \$1,000 is a class A nonperson misdemeanor.
- (2) Upon conviction of official misconduct a public officer or employee shall forfeit such officer or employee's office or employment.
- (c) The provisions of subsection (a)(1) shall not apply to any use of persons or property which:
- (1) At the time of the use, is authorized by law or by formal written policy of the governmental entity; or
 - (2) constitutes misuse of public funds, as defined in K.S.A. 21-6005, and amendments thereto.
- (d) As used in this section, "confidential" means any information that is not subject to mandatory disclosure pursuant to K.S.A. 45-221, and amendments thereto.

Chapter 21
Art. 61 thru 64

21-6101 Breach of privacy; eavesdropping
(UPOC §§3.10 & 3.12)¹

Amended 2011

- (a) Breach of privacy is knowingly and without lawful authority:
- (1) Intercepting, without the consent of the sender or receiver, a message by telephone, telegraph, letter or other means of private communication;
 - (2) divulging, without the consent of the sender or receiver, the existence or contents of such message if such person knows that the message was illegally intercepted, or if such person illegally learned of the message in the course of employment with an agency in transmitting it;
 - (3) entering with intent to listen surreptitiously to private conversations *in a private place* or to observe the personal conduct of any other person or persons *entitled to privacy* therein;
 - (4) installing or using outside *or inside* a private place any device for hearing, recording, amplifying or broadcasting sounds originating in such place, which sounds would not ordinarily be audible or comprehensible *without the use of such device*, without the consent of the person or persons entitled to privacy therein;
 - (5) installing or using any device or equipment for the interception of any telephone, telegraph or other wire *or wireless* communication without the consent of the person in possession or control of the facilities for such communication;
 - (6) installing or using a concealed camcorder, motion picture camera or photographic camera of any type, to secretly videotape, film, photograph or record by electronic *or other* means, another, identifiable person under or through the clothing being worn by that other person or another, identifiable person who is nude or in a state of undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to invade the privacy of that other person, under circumstances in which the other person has a reasonable expectation of privacy; *or*
 - (7) *disseminating or permitting the dissemination of any videotape, photograph, film or image obtained in violation of subsection (a)(6).*
- (b) Breach of privacy *as defined in:*
- (1) *Subsection (a)(1) through (a)(5) is a class A nonperson misdemeanor;*
 - (2) *subsection (a)(6) is a severity level 8, person felony; and*
 - (3) *subsection (a)(7) is a severity level 5, person felony.*
- (c) Subsection (a)(1) shall not apply to messages overheard through a regularly installed instrument on a telephone party line or on an extension.
- (d) The provisions of this section shall not apply to an operator of a switchboard, or any officer, employee or agent of any public utility providing telephone communications service, whose facilities are used in the transmission of a communication, to intercept, disclose or use that communication in the normal course of employment while engaged in any activity which is incident to the rendition of public utility service or to the protection of the rights of property of such public utility.
- (e) As used in this section, “private place” means a place where one may reasonably expect to be safe from uninvited intrusion or surveillance.

¹**Note:** UPOC §3.10 relates to subsection (a)(6), UPOC §3.12 relates to subsections (a)(1) thru (a)(5).

21-6103 Criminal false communication

- (a) Criminal false communication is:
- (1) Communicating to any person, by any means, information that the person communicating such information knows to be false and will tend to:
 - (A) Expose another living person to public hatred, contempt or ridicule;
 - (B) deprive such person of the benefits of public confidence and social acceptance; or

- (C) degrade and vilify the memory of one who is dead and to scandalize or provoke surviving relatives and friends; or
 - (2) recklessly making, circulating or causing to be circulated any false report, statement or rumor with intent to injure the financial standing or reputation of any bank, financial or business institution or the financial standing of any individual in this state.
 - (b) Criminal false communication is a class A nonperson misdemeanor.
 - (c) In all prosecutions under this section the truth of the information communicated shall be admitted as evidence. It shall be a defense to a charge of criminal false communication if it is found that such matter was true.
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21-6106 Unlawful public demonstration at a funeral ***(UPOC §9.11)***

- (a) Unlawful public demonstration at a funeral is:
 - (1) Engaging in a public demonstration at any public location within 150 feet of any entrance to any cemetery, church, mortuary or other location where a funeral is held or conducted, within one hour prior to the scheduled commencement of a funeral, during a funeral or within two hours following the completion of a funeral;
 - (2) knowingly obstructing, hindering, impeding or blocking another person's entry to or exit from a funeral; or
 - (3) knowingly impeding vehicles which are part of a funeral procession.
 - (b) Unlawful public demonstration at a funeral is a class B person misdemeanor. Each day on which a violation occurs shall constitute a separate offense.
 - (c) As used in this section:
 - (1) "Funeral" means the ceremonies, processions and memorial services held in connection with the burial or cremation of a person; and
 - (2) "public demonstration" means:
 - (A) Any picketing or similar conduct, or
 - (B) any oration, speech, use of sound amplification equipment or device, or similar conduct that is not part of a funeral.
 - (d) This section may be cited as the Kansas funeral privacy act.
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21-6107 Identity theft; identity fraud

Amended 2011

- (a) Identity theft is obtaining, possessing, transferring, using, selling or purchasing any personal identifying information, or document containing the same, belonging to or issued to another person, with the intent to defraud that person, or any one else, in order to receive any benefit.
- (b) Identity fraud is:
 - (1) Using or supplying information the person knows to be false in order to obtain a document containing any personal identifying information; or
 - (2) altering, amending, counterfeiting, making, manufacturing or otherwise replicating any document containing personal identifying information with the intent to deceive;
- (c)(1) Identity theft is a:
 - (A) Severity level 8, nonperson felony, except as provided in subsection (c)(1)(B); and
 - (B) severity level 5, nonperson felony if the monetary loss to the victim or victims is more than \$100,000.
- (2) Identity fraud is a severity level 8, nonperson felony.
- (d) It is not a defense that the person did not know that such personal identifying information belongs to another person, or that the person to whom such personal identifying information belongs or was issued is deceased.
- (e) As used in this section "personal identifying information" includes, but is not limited to, the following:
 - (1) Name;
 - (2) birth date;
 - (3) address;

- (4) telephone number;
- (5) driver's license number or card or nondriver's identification number or card;
- (6) social security number or card;
- (7) place of employment;
- (8) employee identification numbers or other personal identification numbers or cards;
- (9) mother's maiden name;
- (10) birth, death or marriage certificates;
- (11) electronic identification numbers;
- (12) electronic signatures; and
- (13) any financial number, or password that can be used to access a person's financial resources, including, but not limited to, checking or savings accounts, credit or debit card information, demand deposit or medical information.

¹**Note:** *The 2011 amendment only deleted the words "is a" from the footnote location.*

21-6108 Unlawful possession of scanning device or reencoder

- (a) It is unlawful for any person, with the intent to defraud to possess or use a:
 - (1) Scanning device to access, read, obtain, memorize or store, temporarily or permanently, information encoded on the computer chip or magnetic strip or stripe of a payment card; or
 - (2) reencoder to place encoded information on the computer chip or magnetic strip or stripe of a payment card or any electronic medium that allows an authorized transaction to occur.
- (b) Violation of this section is a severity level 6, nonperson felony.
- (c) As used in this section:
 - (1) "Scanning device" means a scanner, reader or any other electronic device that is used to access, read, scan, obtain, memorize or store, temporarily or permanently, information encoded on the computer chip or magnetic strip or stripe of a payment card;
 - (2) "reencoder" means an electronic device that places encoded information from the computer chip, magnetic strip or stripe of a payment card onto the computer chip, magnetic strip or stripe of a different payment card or any electronic medium that allows an authorized transaction to occur; and
 - (3) "payment card" means a credit card, debit card or any other card that is issued to an authorized user and that allows the user to obtain, purchase or receive goods, services, money or anything else of value.

21-6109 Definitions—Smoking in a public place

As used in K.S.A. 21-6109 through 21-6115, and amendments thereto:

- (a) "Access point" means the area within a ten foot radius outside of any doorway, open window or air intake leading into a building or facility that is not exempted pursuant to subsection (d) of K.S.A. 21-6110, and amendments thereto.
- (b) "Bar" means any indoor area that is operated and licensed for the sale and service of alcoholic beverages, including alcoholic liquor as defined in K.S.A. 41-102, and amendments thereto, or cereal malt beverages as defined in K.S.A. 41-2701, and amendments thereto, for on-premises consumption.
- (c) "Employee" means any person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and any person who volunteers their services for a nonprofit entity.
- (d) "Employer" means any person, partnership, corporation, association or organization, including municipal or nonprofit entities, which employs one or more individual persons.
- (e) "Enclosed area" means all space between a floor and ceiling which is enclosed on all sides by solid walls, windows or doorways which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid or similar structures. For purposes of this section, the following shall not be considered an "enclosed area": (1) Rooms or areas, enclosed by walls, windows or doorways, having neither a ceiling nor a roof and which are completely open to the elements and weather at all times; and (2) rooms or areas, enclosed by walls, fences, windows or doorways and a roof or ceiling, having openings that are permanently open to the elements and weather and which comprise an area that is at least 30% of the total perimeter wall area of such room or area.

- (f) "Food service establishment" means any place in which food is served or is prepared for sale or service on the premises. Such term shall include, but not be limited to, fixed or mobile restaurants, coffee shops, cafeterias, short-order cafes, luncheonettes, grills, tea rooms, sandwich shops, soda fountains, taverns, private clubs, roadside kitchens, commissaries and any other private, public or nonprofit organization or institution routinely serving food and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.
- (g) "Gaming floor" means the area of a lottery gaming facility or racetrack gaming facility, as those terms are defined in K.S.A. 74-8702, and amendments thereto, where patrons engage in Class III gaming. The gaming floor shall not include any areas used for accounting, maintenance, surveillance, security, administrative offices, storage, cash or cash counting, records, food service, lodging or entertainment, except that the gaming floor may include a bar where alcoholic beverages are served so long as the bar is located entirely within the area where Class III gaming is conducted.
- (h) "Medical care facility" means a physician's office, general hospital, special hospital, ambulatory surgery center or recuperation center, as defined by K.S.A. 65-425, and amendments thereto, and any psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto.
- (i) "Outdoor recreational facility" means a hunting, fishing, shooting or golf club, business or enterprise operated primarily for the benefit of its owners, members and their guests and not normally open to the general public.
- (j) "Place of employment" means any enclosed area under the control of a public or private employer, including, but not limited to, work areas, auditoriums, elevators, private offices, employee lounges and restrooms, conference and meeting rooms, classrooms, employee cafeterias, stairwells and hallways, that is used by employees during the course of employment. For purposes of this section, a private residence shall not be considered a "place of employment" unless such residence is used as a day care home, as defined in K.S.A. 65-530, and amendments thereto.
- (k) "Private club" means an outdoor recreational facility operated primarily for the use of its owners, members and their guests that in its ordinary course of business is not open to the general public for which use of its facilities has substantial dues or membership fee requirements for its members.
- (l) "Public building" means any building owned or operated by: (1) The state, including any branch, department, agency, bureau, commission, authority or other instrumentality thereof; (2) any county, city, township, other political subdivision, including any commission, authority, agency or instrumentality thereof; or (3) any other separate corporate instrumentality or unit of the state or any municipality.
- (m) "Public meeting" means any meeting open to the public pursuant to K.S.A. 75-4317 et seq., and amendments thereto, or any other law of this state.
- (n) "Public place" means any enclosed areas open to the public or used by the general public including, but not limited to: Banks, bars, food service establishments, retail service establishments, retail stores, public means of mass transportation, passenger elevators, health care institutions or any other place where health care services are provided to the public, medical care facilities, educational facilities, libraries, courtrooms, public buildings, restrooms, grocery stores, school buses, museums, theaters, auditoriums, arenas and recreational facilities. For purposes of this section, a private residence shall not be considered a "public place" unless such residence is used as a day care home, as defined in K.S.A. 65-530, and amendments thereto.
- (o) "Smoking" means possession of a lighted cigarette, cigar, pipe or burning tobacco in any other form or device designed for the use of tobacco.
- (p) "Tobacco shop" means any indoor area operated primarily for the retail sale of tobacco, tobacco products or smoking devices or accessories, and which derives not less than 65% of its gross receipts from the sale of tobacco.
- (q) "Substantial dues or membership fee requirements" means initiation costs, dues or fees proportional to the cost of membership in similarly-situated outdoor recreational facilities that are not considered nominal and implemented to otherwise avoid or evade restrictions of a statewide ban on smoking.

21-6110 Smoking in public place prohibited, exceptions; designated smoking areas
(UPOC §10.24)

Amended 2011

- (a) No person shall smoke in an enclosed area or at a public meeting including, but not limited to:
- (1) Public places;
 - (2) taxicabs and limousines;
 - (3) restrooms, lobbies, hallways and other common areas in public and private buildings, condominiums and other multiple-residential facilities;
 - (4) restrooms, lobbies and other common areas in hotels and motels and in at least 80% of the sleeping quarters within a hotel or motel that may be rented to guests;
 - (5) access points of all buildings and facilities not exempted pursuant to subsection (d); and
 - (6) any place of employment.
- (b) Each employer having a place of employment that is an enclosed area shall provide a smoke-free workplace for all employees. Such employer shall also adopt and maintain a written smoking policy which shall prohibit smoking without exception in all areas of the place of employment. Such policy shall be communicated to all current employees within one week of its adoption and shall be communicated to all new employees upon hiring. Each employer shall provide a written copy of the smoking policy upon request to any current or prospective employee.
- (c) Notwithstanding any other provision of this section, *K.S.A. 21-6111* or 21-6112, and amendments thereto, the proprietor or other person in charge of an adult care home, as defined in K.S.A. 39-923, and amendments thereto, or a medical care facility, may designate a portion of such adult care home, or the licensed long-term care unit of such medical care facility, as a smoking area, and smoking may be permitted within such designated smoking area.
- (d) The provisions of this section shall not apply to:
- (1) The outdoor areas of any building or facility beyond the access points of such building or facility;
 - (2) private homes or residences, except when such home or residence is used as a day care home, as defined in K.S.A. 65-530, and amendments thereto;
 - (3) a hotel or motel room rented to one or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed 20%;
 - (4) the gaming floor of a lottery gaming facility or racetrack gaming facility, as those terms are defined in K.S.A. 74-8702, and amendments thereto;
 - (5) that portion of an adult care home, as defined in K.S.A. 39-923, and amendments thereto, that is expressly designated as a smoking area by the proprietor or other person in charge of such adult care home pursuant to subsection (c) and that is fully enclosed and ventilated;
 - (6) that portion of a licensed long-term care unit of a medical care facility that is expressly designated as a smoking area by the proprietor or other person in charge of such medical care facility pursuant to subsection (c) and that is fully enclosed and ventilated and to which access is restricted to the residents and their guests;
 - (7) tobacco shops;
 - (8) a class A or class B club defined in K.S.A. 41-2601, and amendments thereto, which (A) held a license pursuant to K.S.A. 41-2606 et seq., and amendments thereto, as of January 1, 2009; and (B) notifies the secretary of health and environment in writing, not later than 90 days after the effective date of this act, that it wishes to continue to allow smoking on its premises;
 - (9) a private club in designated areas where minors are prohibited; *and*
 - (10) *any benefit cigar dinner or other cigar dinner of a substantially similar nature that:*
 - (A) *Is conducted specifically and exclusively for charitable purposes by a nonprofit organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;*
 - (B) *is conducted no more than once per calendar year by such organization; and*
 - (C) *has been held during each of the previous three years prior to January 1, 2011.*

21-6112 Penalties—Smoking in public place**(UPOC §10.26)**

- (a) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any public place, or other area where smoking is prohibited, to fail to comply with all or any of the provisions of K.S.A. 21-6109 through 21-6114, and amendments thereto.
- (b) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any public place, or other area where smoking is prohibited, to allow smoking to occur where prohibited by law. Any such person shall be deemed to allow smoking to occur under this subsection if such person:
- (1) Has knowledge that smoking is occurring; and
 - (2) acquiesces to the smoking under the totality of the circumstances.
- (c) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of K.S.A. 21-6110, and amendments thereto.
- (d) Any person who violates any provision of K.S.A. 21-6109 through 21-6114, and amendments thereto, shall be guilty of a cigarette or tobacco infraction punishable by a fine:
- (1) Not exceeding \$100 for the first violation;
 - (2) not exceeding \$200 for a second violation within a one year period after the first violation; or
 - (3) not exceeding \$500 for a third or subsequent violation within a one year period after the first violation.
- For purposes of this subsection, the number of violations within a year shall be measured by the date the smoking violations occur.
- (e) Each individual allowed to smoke by a person who owns, manages, operates or otherwise controls the use of any public place, or other area where smoking is prohibited, in violation of subsection (b) shall be considered a separate violation for purposes of determining the number of violations under subsection (d).
- (f) No employer shall discharge, refuse to hire or in any manner retaliate against an employee, applicant for employment or customer because that employee, applicant or customer reports or attempts to prosecute a violation of any of the provisions of K.S.A. 21-6109 through 21-6114, and amendments thereto.

21-6201 Riot; Incitement to riot**(UPOC §9.4)**

- (a) Riot is five or more persons acting together and without lawful authority engaging in any:
- (1) Use of force or violence which produces a breach of the public peace; or
 - (2) threat to use such force or violence against any person or property if accompanied by power or apparent power of immediate execution.
- (b) Incitement to riot is by words or conduct knowingly urging others to engage in riot as defined in subsection (a) under circumstances which produce a clear and present danger of injury to persons or property or a branch¹ of the public peace.
- (c)(1) Riot is a class A person misdemeanor.
- (2) Incitement to riot is a severity level 8, person felony.

¹**Note:** So in original legislation. Legislative intent may have been “breach”.

21-6202 Unlawful assembly; remaining at an unlawful assembly**(UPOC §9.2)**

- (a) Unlawful assembly is:
- (1) The meeting or coming together of not less than five persons with the intent to engage in conduct constituting:
 - (A) Disorderly conduct, as defined by K.S.A. 21-6203, and amendments thereto; or
 - (B) riot, as defined by K.S.A. 21-6201, and amendments thereto; or
 - (2) when a lawful assembly of not less than five persons, agreeing to engage in conduct constituting disorderly conduct or riot.
- (b) Remaining at an unlawful assembly is intentionally failing to depart from the place of an unlawful assembly after being directed to leave by a law enforcement officer.
- (c)(1) Unlawful assembly is a class B nonperson misdemeanor.
- (2) Remaining at an unlawful assembly is a class A nonperson misdemeanor.

21-6203 Disorderly conduct**(UPOC §9.1)**

- (a) Disorderly conduct is one or more of the following acts that the person knows or should know will alarm, anger or disturb others or provoke an assault or other breach of the peace:
- (1) Brawling or fighting;
 - (2) disturbing an assembly, meeting or procession, not unlawful in its character; or
 - (3) using fighting words or engaging in noisy conduct tending reasonably to arouse alarm, anger or resentment in others.
- (b) Disorderly conduct is a class C misdemeanor.
- (c) As used in this section, “fighting words” means words that by their very utterance inflict injury or tend to incite the listener to an immediate breach of the peace.
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21-6204 Maintaining a public nuisance; permitting a public nuisance**(UPOC §9.5)**

- (a) Maintaining a public nuisance is knowingly causing or permitting a condition to exist which injures or endangers the public health, safety or welfare.
- (b) Permitting a public nuisance is knowingly permitting property under the control of the offender to be used to maintain a public nuisance, as defined in subsection (a).
- (c) Maintaining a public nuisance or permitting a public nuisance is a class C misdemeanor.
- (d)(1) Upon a conviction of a violation this section for maintaining a public nuisance or permitting a public nuisance on the premises of a club or drinking establishment licensed under the club and drinking establishment act, the court shall report such conviction to the director of alcoholic beverage control.
- (2) Upon a conviction of a violation of this section for maintaining a public nuisance or permitting a public nuisance on the premises of a retailer licensed under K.S.A. 41-2701 et seq., and amendments thereto, the court shall report such conviction to the governing body of the city or county which issued the license.
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21-6205 Criminal desecration**(UPOC §9.8)****Amended 2011**

- (a) Criminal desecration is:
- (1) Knowingly obtaining or attempting to obtain unauthorized control of a dead body or remains of any human being or the coffin, urn or other article containing a dead body or remains of any human being; or
 - (2) recklessly, by means other than by fire or explosive:
 - (A) Damaging, defacing or destroying the flag, ensign or other symbol of the United States or this state in which another has a property interest without the consent of such other person;
 - (B) damaging, defacing or destroying any public monument or structure;
 - (C) damaging, defacing or destroying any tomb, monument, memorial, marker, grave, vault, crypt gate, tree, shrub, plant or any other property in a cemetery; or
 - (D) damaging, defacing or destroying any place of worship.
- (b) Criminal desecration as defined in:
- (I)** Subsections (a)(2)(B), (a)(2)(C) **or** (a)(2)(D) if the property is damaged to the extent of:
- (A) \$25,000 or more is a severity level 7, nonperson felony;
 - (B) at least \$1,000 but less than \$25,000 is a severity level 9, nonperson felony; and
 - (C) less than \$1,000 is a class A nonperson misdemeanor; **and**
- (2) subsections (a)(1) **or** (a)(2)(A) is a class A nonperson misdemeanor.
-

21-6206 Harassment by telecommunication device; harassment by telefacsimile communication**(UPOC §9.10)****Amended 2011**

- (a) Harassment by telecommunication device is the use of:
- (1) **A telecommunications device** to:

- (A) Knowingly make or transmit any comment, request, suggestion, proposal, *image or text* which is obscene, lewd, lascivious or indecent;
- (B) make or transmit a call, whether or not conversation ensues, with intent to abuse, threaten or harass any person at the receiving end;**
- (C) make or transmit any comment, request, suggestion, proposal, image or text with intent to abuse, threaten or harass any person at the receiving end;**
- (D) make or cause a telecommunications device to repeatedly ring or activate with intent to harass any person at the receiving end;**
- (E) knowingly play any recording on a telephone, except recordings such as weather information or sports information when the number thereof is dialed, unless the person or group playing the recording shall be identified and state that it is a recording; or
- (F) knowingly permit any *telecommunications device* under one's control to be used in violation of this paragraph.
- (2) Telefacsimile communication to send or transmit such communication to a court in the state of Kansas for a use other than court business, with no requirement of culpable mental state.
- (b) Harassment by telecommunication device is a class A nonperson misdemeanor.
- (c) Every telephone directory published for distribution to members of the general public shall contain a notice setting forth a summary of the provisions of this section. Such notice shall be printed in type which is no smaller than any other type on the same page and shall be preceded by the word "WARNING."
- (d) As used in this section, "*telecommunications device*" includes telephones, cellular telephones, telefacsimile machines and any other electronic device which makes use of an electronic communication service, as defined in K.S.A. 22-2514, and amendments thereto.
- (e) An offender who violates the provisions of this section may also be prosecuted for, convicted of, and punished for any other offense in K.S.A. 21-5508, 21-5509, 21-6401.**
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21-6207 Giving a false alarm **(UPOC §9.7)**

- (a) Giving a false alarm is:
- (1) Transmitting in any manner to the fire department of any city, township or other municipality a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists; or
- (2) making a call in any manner for emergency service assistance including police, fire, medical or other emergency service provided under K.S.A. 12-5301 et seq., and amendments thereto, knowing at the time of such call that there is no reasonable ground for believing such assistance is needed.
- (b) Giving a false alarm is a class A nonperson misdemeanor.
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21-6301 Criminal use of weapons **(UPOC §§10.1 & 10.3)¹**

Amended 2011

- (a) Criminal use of weapons is knowingly:
- (1) Selling, manufacturing, purchasing or possessing any bludgeon, sand club, metal knuckles or throwing star, or any knife, commonly referred to as a switch-blade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement;
- (2) possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slung-shot, dangerous knife, straight-edged razor, stiletto or any other dangerous or deadly weapon or instrument of like character, except that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife, or a dangerous or deadly weapon or instrument;
- (3) setting a spring gun;
- (4) possessing any device or attachment of any kind designed, used or intended for use in suppressing the report of any firearm;

- (5) selling, manufacturing, purchasing or possessing a shotgun with a barrel less than 18 inches in length, or any firearm designed to discharge or capable of discharging automatically more than once by a single function of the trigger, whether the person knows or has reason to know the length of the barrel or that the firearm is designed or capable of discharging automatically;
 - (6) possessing, manufacturing, causing to be manufactured, selling, offering for sale, lending, purchasing or giving away any cartridge which can be fired by a handgun and which has a plastic-coated bullet that has a core of less than 60% lead by weight, whether the person knows or has reason to know that the plastic-coated bullet has a core of less than 60% lead by weight;
 - (7) selling, giving or otherwise transferring any firearm with a barrel less than 12 inches long to any person under 18 years of age whether the person knows or has reason to know the length of the barrel;
 - (8) selling, giving or otherwise transferring any firearms to any person who is both addicted to and an unlawful user of a controlled substance;
 - (9) selling, giving or otherwise transferring any firearm to any person who is or has been a mentally ill person subject to involuntary commitment for care and treatment, as defined in K.S.A. 59-2946, and amendments thereto, or a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. 59-29b46, and amendments thereto;
 - (10) possession of any firearm by a person who is both addicted to and an unlawful user of a controlled substance;
 - (11) possession of any firearm by any person, other than a law enforcement officer, in or on any school property or grounds upon which is located a building or structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades 1 through 12 or at any regularly scheduled school sponsored activity or event whether the person knows or has reason to know that such person was in or on any such property or grounds;
 - (12) refusal to surrender or immediately remove from school property or grounds or at any regularly scheduled school sponsored activity or event any firearm in the possession of any person, other than a law enforcement officer, when so requested or directed by any duly authorized school employee or any law enforcement officer;
 - (13) possession of any firearm by a person who is or has been a mentally ill person subject to involuntary commitment for care and treatment, as defined in K.S.A. 59-2946, and amendments thereto, or persons with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. 59-29b46, and amendments thereto; or
 - (14) possessing a firearm with a barrel less than 12 inches long by any person less than 18 years of age whether the person knows or has reason to know the length of the barrel.
- (b) Criminal use of weapons as defined in:
- (1) Subsection (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), (a)(9) or (a)(12) is a class A nonperson misdemeanor;
 - (2) subsection (a)(4), (a)(5) or (a)(6) is a severity level 9, nonperson felony;
 - (3) subsection (a)(10) or (a)(11) is a class B nonperson select misdemeanor;
 - (4) subsection (a)(13) is a severity level 8, nonperson felony; and
 - (5) subsection (a)(14) is a:
 - (A) Class A nonperson misdemeanor except as provided in subsection (b)(5)(B);
 - (B) severity level 8, nonperson felony upon a second or subsequent conviction.
- (c) Subsections (a)(1), (a)(2) and (a)(5) shall not apply to:
- (1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
 - (2) wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;
 - (3) members of the armed services or reserve forces of the United States or the Kansas national guard while in the performance of their official duty; or

- (4) the manufacture of, transportation to, or sale of weapons to a person authorized under subsections (c)(1), (c)(2) and (c)(3) to possess such weapons.
- (d) Subsections (a)(4) and (a)(5) shall not apply to any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S. C. §5841 et seq. in the name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor.
- (e) Subsection (a)(6) shall not apply to a governmental laboratory or solid plastic bullets.
- (f) Subsection (a)(4) shall not apply to a law enforcement officer who is:
- (1) Assigned by the head of such officer's law enforcement agency to a tactical unit which receives specialized, regular training;
 - (2) designated by the head of such officer's law enforcement agency to possess devices described in subsection (a)(4); and
 - (3) in possession of commercially manufactured devices which are:
 - (A) Owned by the law enforcement agency;
 - (B) in such officer's possession only during specific operations; and
 - (C) approved by the bureau of alcohol, tobacco, firearms and explosives of the United States department of justice.
- (g) Subsections (a)(4), (a)(5) and (a)(6) shall not apply to any person employed by a laboratory which is certified by the United States department of justice, national institute of justice, while actually engaged in the duties of their employment and on the premises of such certified laboratory. Subsections (a)(4), (a)(5) and (a)(6) shall not affect the manufacture of, transportation to or sale of weapons to such certified laboratory.
- (h) Subsections (a)(4) and (a)(5) shall not apply to or affect any person or entity in compliance with the national firearms act, 26 U.S.C. §5801 et seq.
- (i) Subsection (a)(11) shall not apply to:
- (1) Possession of any firearm in connection with a firearms safety course of instruction or firearms education course approved and authorized by the school;
 - (2) any possession of any firearm specifically authorized in writing by the superintendent of any unified school district or the chief administrator of any accredited nonpublic school;
 - (3) possession of a firearm secured in a motor vehicle by a parent, guardian, custodian or someone authorized to act in such person's behalf who is delivering or collecting a student;
 - (4) possession of a firearm secured in a motor vehicle by a registered voter who is on the school grounds, which contain a polling place for the purpose of voting during polling hours on an election day; **or**
 - (5) possession of a handgun by an individual who is licensed by the attorney general to carry a concealed handgun under K.S.A. 75-7c01 et seq., and amendments thereto.**
- (j) Subsections (a)(9) and (a)(13) shall not apply to a person who has received a certificate of restoration pursuant to K.S.A. 75-7c26, and amendments thereto.
- (k) Subsection (a)(14) shall not apply if such person, less than 18 years of age, was:
- (1) In attendance at a hunter's safety course or a firearms safety course;
 - (2) engaging in practice in the use of such firearm or target shooting at an established range authorized by the governing body of the jurisdiction in which such range is located;
 - (3) engaging in an organized competition involving the use of such firearm, or participating in or practicing for a performance by an organization exempt from federal income tax pursuant to section 501(c)(3) of the internal revenue code of 1986 which uses firearms as a part of such performance;
 - (4) hunting or trapping pursuant to a valid license issued to such person pursuant to article 9 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto;
 - (5) traveling with any such firearm in such person's possession being unloaded to or from any activity described in subsections (k)(1) through (k)(4), only if such firearm is secured, unloaded and outside the immediate access of such person;

- (6) on real property under the control of such person's parent, legal guardian or grandparent and who has the permission of such parent, legal guardian or grandparent to possess such firearm; or
- (7) at such person's residence and who, with the permission of such person's parent or legal guardian, possesses such firearm for the purpose of exercising the rights contained in *K.S.A. 21-5222, 21-5223 or 21-5225*, and amendments thereto.

(l) Subsection (a)(1) shall not apply to any ordinary pocket knife which has a spring, detent or other device which creates a bias towards closure of the blade and which requires hand pressure applied to such spring, detent or device through the blade of the knife to overcome the bias towards closure to assist in the opening of the knife.

(m) As used in this section, "throwing star" means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond or other geometric shape, manufactured for use as a weapon for throwing.

¹**Note:** UPOC §10.1 relates to subsection (a)(1), UPOC §10.3 relates to subsections (a)(7) and (a)(8).

21-6302 Criminal carrying of a weapon

(UPOC §10.1)

Amended 2011

(a) Criminal carrying of a weapon is knowingly carrying:

- (1) Any bludgeon, sandclub, metal knuckles or throwing star, or any knife, commonly referred to as a switch-blade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement;
- (2) concealed on one's person, a dagger, dirk, billy, blackjack, slungshot, dangerous knife, straight-edged razor, stiletto or any other dangerous or deadly weapon or instrument of like character, except that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife, or a dangerous or deadly weapon or instrument;
- (3) on one's person or in any land, water or air vehicle, with intent to use the same unlawfully, a tear gas or smoke bomb or projector or any object containing a noxious liquid, gas or substance;
- (4) any pistol, revolver or other firearm concealed on one's person except when on the person's land or in the person's abode or fixed place of business; or
- (5) a shotgun with a barrel less than 18 inches in length or any other firearm designed to discharge or capable of discharging automatically more than once by a single function of the trigger whether the person knows or has reason to know the length of the barrel or that the firearm is designed or capable of discharging automatically.

(b) Criminal carrying of a weapon as defined in:

- (1) Subsections (a)(1), (a)(2), (a)(3) or (a)(4) is a class A nonperson misdemeanor; and
- (2) subsection (a)(5) is a severity level 9, nonperson felony.

(c) Subsection (a) shall not apply to:

- (1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
- (2) wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;
- (3) members of the armed services or reserve forces of the United States or the Kansas national guard while in the performance of their official duty; or
- (4) the manufacture of, transportation to, or sale of weapons to a person authorized under subsections (c)(1), (c)(2) and (c)(3) to possess such weapons.

(d) Subsection (a)(4) shall not apply to:

- (1) Watchmen, while actually engaged in the performance of the duties of their employment;
- (2) licensed hunters or fishermen, while engaged in hunting or fishing;

- (3) private detectives licensed by the state to carry the firearm involved, while actually engaged in the duties of their employment;
 - (4) detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment;
 - (5) the state fire marshal, the state fire marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to K.S.A. 31-157, and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157, and amendments thereto;
 - (6) special deputy sheriffs described in K.S.A. 19-827, and amendments thereto, who have satisfactorily completed the basic course of instruction required for permanent appointment as a part-time law enforcement officer under K.S.A. 74-5607a, and amendments thereto;
 - (7) the United States attorney for the district of Kansas, the attorney general, any district attorney or county attorney, any assistant United States attorney if authorized by the United States attorney for the district of Kansas, any assistant attorney general if authorized by the attorney general, or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed. The provisions of this paragraph shall not apply to any person not in compliance with K.S.A. 75-7c19, and amendments thereto; or
 - (8) any person carrying a concealed *handgun* as authorized by K.S.A. 75-7c01 through 75-7c17, and amendments thereto.
- (e) Subsection (a)(5) shall not apply to:
- (1) Any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. §5841 et seq. in the name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor;
 - (2) any person employed by a laboratory which is certified by the United States department of justice, national institute of justice, while actually engaged in the duties of their employment and on the premises of such certified laboratory. Subsection (a)(5) shall not affect the manufacture of, transportation to or sale of weapons to such certified laboratory; or
 - (3) any person or entity in compliance with the national firearms act, 26 U.S.C. §5801 et seq.
- (f) Subsection (a)(1) shall not apply to any ordinary pocket knife which has a spring, detent or other device which creates a bias towards closure of the blade and which requires hand pressure applied to such spring, detent or device through the blade of the knife to overcome the bias towards closure to assist in the opening of the knife.*
- (g) It shall not be a violation of this section if a person violates the provisions of K.S.A. 75-7c03, and amendments thereto, but has an otherwise valid license to carry a concealed handgun which is issued or recognized by this state.*
- (h) As used in this section, "throwing star" means the same as prescribed by K.S.A. 21-6301, and amendments thereto.*

21-6303 Criminal distribution of firearms to a felon

(UPOC §10.3)

Amended 2011

- (a) Criminal distribution of firearms to a felon is knowingly:
- (1) Selling, giving or otherwise transferring any firearm to any person who, within the preceding five years, has been convicted of a felony, other than those specified in subsection (c), under the laws of this or any other jurisdiction or has been released from imprisonment for a felony and was not found to have been in possession of a firearm at the time of the commission of the felony;
 - (2) selling, giving or otherwise transferring any firearm to any person who, within the preceding 10 years, has been convicted of a felony to which this subsection applies, but was not found to have been in posses-

sion of a firearm at the time of the commission of the felony, or has been released from imprisonment for such a felony, and has not had the conviction of such felony expunged or been pardoned for such felony; or (3) selling, giving or otherwise transferring any firearm to any person who has been convicted of a felony under the laws of this or any other jurisdiction and was found to have been in possession of a firearm at the time of the commission of the felony.

(b) Criminal distribution of firearms to a felon is a class A nonperson misdemeanor.

(c) Subsection (a)(2) shall apply to a felony under K.S.A. 21-5402, 21-5403, 21-5404, 21-5405, 21-5408, subsection (b) or (d) of K.S.A. 21-5412, subsection (b) or (d) of K.S.A. 21-5413, subsection (a) *or* (b) of K.S.A. 21-5415, subsection (b) of K.S.A. 21-5420, **K.S.A. 21-5503**, subsection (b) of K.S.A. 21-5504, subsection (b) of K.S.A. 21-5505, *and* subsection (b) of **K.S.A. 21-5807**, and amendments thereto, **K.S.A. 21-5705 or 21-5706**, and amendments thereto, or K.S.A. **21-3401, 21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419, 21-3420, 21-3421, 21-3427, 21-3442, 21-3502, 21-3506, 21-3518, 21-3716**, 65-4127a, 65-4127b or 65-4160 through **65-4165**, prior to their repeal, or a crime under a law of another jurisdiction which is substantially the same as such felony.

(d) It is not a defense that the distributor did not know or have reason to know:

(1) The precise felony the recipient committed;

(2) that the recipient was in possession of a firearm at the time of the commission of the recipient's prior felony; or

(3) that the convictions for such felony have not been expunged or pardoned.

21-6304 Criminal possession of a firearm by convicted felon

(UPOC §10.3.1)

Amended 2011

(a) Criminal possession of a firearm by a convicted felon is possession of any firearm by a person who:

(1) Has been convicted of a person felony or a violation of **K.S.A. 21-5701 through 21-5717**, and amendments thereto, *or any violation of any provision of the uniform controlled substances act prior to July 1, 2009*, or a crime under a law of another jurisdiction which is substantially the same as such felony or violation, or was adjudicated a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a person felony or a violation of **K.S.A. 21-5701 through 21-5717**, and amendments thereto, *or any violation of any provision of the uniform controlled substances act prior to July 1, 2009*, and was found to have been in possession of a firearm at the time of the commission of the crime;

(2) within the preceding five years has been convicted of a felony, other than those specified in subsection (a)(3)(A), under the laws of Kansas or a crime under a law of another jurisdiction which is substantially the same as such felony, has been released from imprisonment for a felony or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a felony, and was not found to have been in possession of a firearm at the time of the commission of the crime; or

(3) within the preceding 10 years, has been convicted of a:

(A) Felony under K.S.A. 21-5402, 21-5403, 21-5404, 21-5405, 21-5408, subsection (b) or (d) of K.S.A. 21-5412, subsection (b) or (d) of K.S.A. 21-5413, subsection (a) of K.S.A. 21-5415, subsection (b) of K.S.A. 21-5420, 21-5503, subsection (b) of K.S.A. 21-5504, subsection (b) of K.S.A. 21-5505, subsection (b) of **K.S.A. 21-5807**, and amendments thereto; **K.S.A. 21-5703, 21-5705, 21-5706, 21-5707 or 21-5709, and amendments thereto; K.S.A. 21-3401, 21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419, 21-3420, 21-3421, 21-3427, 21-3442, 21-3502, 21-3506, 21-3518, 21-3716, 65-4127a, 65-4127b, 65-4159 through 65-4165 or 65-7006, prior to their repeal; an attempt, conspiracy or criminal solicitation as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or section K.S.A. 21-5301, 21-5302 or 21-5305, and amendments thereto, of any such felony**; or a crime under a law of another jurisdiction which is substantially the same as such felony, has been released from imprisonment for such felony, or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of such felony, was not found to have been in posses-

sion of a firearm at the time of the commission of the crime, and has not had the conviction of such crime expunged or been pardoned for such crime; or

(B) nonperson felony under the laws of Kansas or a crime under the laws of another jurisdiction which is substantially the same as such nonperson felony, has been released from imprisonment for such nonperson felony or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a nonperson felony, and was found to have been in possession of a firearm at the time of the commission of the crime.

(b) Criminal possession of a firearm by a convicted felon is a severity level 8, nonperson felony.

21-6305 Aggravated weapons violation by convicted felon

Amended 2011

(a) Aggravated weapons violation by a convicted felon is a violation of any of the provisions of subsections (a)(1) through (a)(6) of *K.S.A. 21-6301 or 21-6302*, and amendments thereto, by a person who:

- (1) Within five years preceding such violation has been convicted of a nonperson felony under the laws of Kansas or in any other jurisdiction which is substantially the same as such crime or has been released from imprisonment for such nonperson felony; or
- (2) has been convicted of a person felony under the laws of Kansas or in any other jurisdiction which is substantially the same as such crime or has been released from imprisonment for such crime, and has not had the conviction of such crime expunged or been pardoned for such crime.

(b)(1) Aggravated weapons violation **by a convicted felon** is a severity level 9, nonperson felony for a violation of subsections (a)(1) through (a)(5) or subsection (a)(9) of K.S.A. 21-4201, prior to its repeal, or subsection (a)(1) through (a)(3) of K.S.A. 21-6301 or subsection (a)(1) through (a)(4) of *K.S.A. 21-6302*, and amendments thereto.

(2) Aggravated weapons violation **by a convicted felon** is a severity level 8, nonperson felony for a violation of subsections (a)(6), (a)(7) and (a)(8) of K.S.A. 21-4201, prior to its repeal, or subsection (a)(4) through (a)(6) of K.S.A. 21-6301 or subsection (a)(5) of *K.S.A. 21-6302*, and amendments thereto.

21-6306 Defacing identification marks of a firearm

(a) Defacing identification marks of a firearm is intentionally changing, altering, removing or obliterating the name of the maker, model, manufacturer's number or other mark of identification of any firearm.

(b) Defacing identification marks of a firearm is a severity level 10, nonperson felony.

(c) Possession of any firearm upon which any such mark has been intentionally changed, altered, removed or obliterated shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same.

21-6308 Criminal discharge of a firearm

(a) Criminal discharge of a firearm is the:

(1) Reckless and unauthorized discharge of any firearm:

(A) At a dwelling, building or structure in which there is a human being whether the person discharging the firearm knows or has reason to know that there is a human being present;

(B) at a motor vehicle, aircraft, watercraft, train, locomotive, railroad car, caboose, rail-mounted work equipment or rolling stock or other means of conveyance of persons or property in which there is a human being whether the person discharging the firearm knows or has reason to know that there is a human being present;

(2) reckless and unauthorized discharge of any firearm at a dwelling in which there is no human being; or

(3) discharge of any firearm:

(A) Upon any land or nonnavigable body of water of another, without having obtained permission of the owner or person in possession of such land; or

(B) upon or from any public road, public road right-of-way or railroad right-of-way except as otherwise authorized by law.

(b) Criminal discharge of a firearm as defined in:

(1) Subsection (a)(1) is a:

(A) Severity level 7, person felony except as provided in subsection (b)(1)(B) or (b)(1)(C);

- (B) severity level 3, person felony if such criminal discharge results in great bodily harm to a person during the commission thereof; or
- (C) severity level 5, person felony if such criminal discharge results in bodily harm to a person during the commission thereof;
- (2) subsection (a)(2) is a severity level 8, person felony; and
- (3) subsection (a)(3) is a class C misdemeanor.
- (c) Subsection (a)(1) shall not apply if the act is a violation of subsection (d) of K.S.A. 21-5412, and amendments thereto.
- (d) Subsection (a)(3) shall not apply to any of the following:
- (1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
 - (2) wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;
 - (3) members of the armed services or reserve forces of the United States or the national guard while in the performance of their official duty;
 - (4) watchmen, while actually engaged in the performance of the duties of their employment;
 - (5) private detectives licensed by the state to carry the firearm involved, while actually engaged in the duties of their employment;
 - (6) detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment;
 - (7) the state fire marshal, the state fire marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to K.S.A. 31-157, and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157, and amendments thereto; or
 - (8) the United States attorney for the district of Kansas, the attorney general, or any district attorney or county attorney, while actually engaged in the duties of their employment or any activities incidental to such duties; any assistant United States attorney if authorized by the United States attorney for the district of Kansas and while actually engaged in the duties of their employment or any activities incidental to such duties; any assistant attorney general if authorized by the attorney general and while actually engaged in the duties of their employment or any activities incidental to such duties; or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed and while actually engaged in the duties of their employment or any activities incidental to such duties. The provisions of this paragraph shall not apply to any person not in compliance with K.S.A. 75-7c19, and amendments thereto.

21-6309 Unlawful possession of firearms on certain government property

Amended 2011

- (a) It shall be unlawful to possess, with no requirement of a culpable mental state, a firearm on the grounds in any of the following places:
- (1) **Within** any building located within the capitol complex;
 - (2) **within** the governor's residence;
 - (3) **on the grounds of or in** any building on the grounds of the governor's residence;
 - (4) **within** any other state-owned or leased building if the secretary of administration has so designated by rules and regulations and conspicuously placed signs clearly stating that firearms are prohibited within such building; or
 - (5) **within** any county courthouse, unless, by county resolution, the board of county commissioners authorize the possession of a firearm within such courthouse.
- (b) Violation of this section is a class A misdemeanor.
- (c) This section shall not apply to:
- (1) A commissioned law enforcement officer;

- (2) a full-time salaried law enforcement officer of another state or the federal government who is carrying out official duties while in this state;
- (3) any person summoned by any such officer to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
- (4) a member of the military of this state or the United States engaged in the performance of duties; **or**
- (5) a person with a license issued pursuant to or recognized under K.S.A. 75-7c01 et seq., and amendments thereto, except in buildings posted in accordance with K.S.A. 75-7c10, and amendments thereto, and in the areas specified in subsections (a)(2) and (a)(3).**
- (d) It is not a violation of this section for the:
- (1) Governor, the governor's immediate family, or specifically authorized guest of the governor to possess a firearm within the governor's residence or on the grounds of or in any building on the grounds of the governor's residence; or
- (2) United States attorney for the district of Kansas, the attorney general, any district attorney or county attorney, any assistant United States attorney if authorized by the United States attorney for the district of Kansas, any assistant attorney general if authorized by the attorney general, or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed, to possess a firearm within any county courthouse and court-related facility, subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district. The provisions of this paragraph shall not apply to any person not in compliance with K.S.A. 75-7c19, and amendments thereto.
- (e) Notwithstanding the provisions of this section, any county may elect by passage of a resolution that the provisions of subsection (d)(2) shall not apply to such county's courthouse or court-related facilities if such:
- (1) Facilities have adequate security measures to ensure that no weapons are permitted to be carried into such facilities;
- (2) facilities have adequate measures for storing and securing lawfully carried weapons, including, but not limited to, the use of gun lockers or other similar storage options;
- (3) county also has a policy or regulation requiring all law enforcement officers to secure and store such officer's firearm upon entering the courthouse or court-related facility. Such policy or regulation may provide that it does not apply to court security or sheriff's office personnel for such county; and
- (4) facilities have a sign conspicuously posted at each entryway into such facility stating that the provisions of subsection (d)(2) do not apply to such facility.
- (f) As used in this section:
- (1) "Adequate security measures" means the use of electronic equipment and personnel to detect and restrict the carrying of any weapons into the facility, including, but not limited to, metal detectors, metal detector wands or any other equipment used for similar purposes;
- (2) "possession" means having joint or exclusive control over a firearm or having a firearm in a place where the person has some measure of access and right of control; and
- (3) "capitol complex" means the same as in K.S.A. 75-4514, and amendments thereto.
- (g) For the purposes of subsection (a)(1), (a)(4) and (a)(5), "building" and "courthouse" shall not include any structure, or any area of any structure, designated for the parking of motor vehicles.**

21-6310 Unlawful endangerment

- (a) Unlawful endangerment is knowingly protecting or attempting to protect the manufacture or cultivation of a controlled substance by creating, setting up, building, erecting or using any device or weapon which:
- (1) Causes great bodily harm;
- (2) causes bodily harm; or
- (3) is intended to cause bodily harm to another person.
- (b) Unlawful endangerment as defined in:
- (1) Subsection (a)(1) is a severity level 5, person felony;
- (2) subsection (a)(2) is a severity level 7, person felony; and
- (3) subsection (a)(3) is a severity level 8, nonperson felony.

- (c) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for battery.
- (d) As used in this section, “manufacture” and “cultivation” mean the same as in K.S.A. 21-5701, and amendments thereto.

21-6312 Criminal possession, disposal, carrying concealed of explosives **(UPOC §10.9)**

- (a) Criminal possession of explosives is the possession of any explosive or detonating substance by a person who, within five years preceding such possession, has been convicted of a felony under the laws of this or any other jurisdiction or has been released from imprisonment for a felony.
- (b) Criminal disposal of explosives is knowingly distributing any explosive or detonating substance to a person:
- (1) Under 21 years of age;
 - (2) who is both addicted to and an unlawful user of a controlled substance; or
 - (3) who, within the preceding five years, has been convicted of a felony under the laws of this or any other jurisdiction or has been released from imprisonment for a felony.
- (c) Carrying concealed explosives is carrying any explosive or detonating substance on the person in a wholly or partly concealed manner.
- (d)(1) Criminal possession of explosives is a severity level 7, person felony.
(2) Criminal disposal of explosives is a severity level 10, person felony.
(3) Carrying concealed explosives is a class C misdemeanor.
- (e) As used in subsections (a) and (b), “explosives” means any chemical compound, mixture or device, of which the primary purpose is to function by explosion, and includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord and igniters.

21-6313 Criminal street gang—Definitions

Amended 2011

As used in *K.S.A. 21-6313 through 21-6316*, and amendments thereto:

- (a) “Criminal street gang” means any organization, association or group, whether formal or informal:
- (1) Consisting of three or more persons;
 - (2) having as one of its primary activities the commission of one or more person felonies, person misdemeanors, felony violations of *K.S.A. 21-5701 through 21-5717*, and amendments thereto, **any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009**, or the comparable juvenile offenses, which if committed by an adult would constitute the commission of such felonies or misdemeanors;
 - (3) which has a common name or common identifying sign or symbol; and
 - (4) whose members, individually or collectively, engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies, person misdemeanors, felony violations of *K.S.A. 21-5701 through 21-5717*, and amendments thereto, **any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009**, or the comparable juvenile offenses, which if committed by an adult would constitute the commission of such felonies or misdemeanors or any substantially similar offense from another jurisdiction;
- (b) “criminal street gang member” is a person who:
- (1) Admits to criminal street gang membership; or
 - (2) meets three or more of the following criteria:
 - (A) Is identified as a criminal street gang member by a parent or guardian;
 - (B) is identified as a criminal street gang member by a state, county or city law enforcement officer or correctional officer or documented reliable informant;
 - (C) is identified as a criminal street gang member by an informant of previously untested reliability and such identification is corroborated by independent information;

- (D) resides in or frequents a particular criminal street gang's area and adopts such gang's style of dress, color, use of hand signs or tattoos, and associates with known criminal street gang members;
 - (E) has been arrested more than once in the company of identified criminal street gang members for offenses which are consistent with usual criminal street gang activity;
 - (F) is identified as a criminal street gang member by physical evidence including, but not limited to, photographs or other documentation;
 - (G) has been stopped in the company of known criminal street gang members two or more times; or
 - (H) has participated in or undergone activities self-identified or identified by a reliable informant as a criminal street gang initiation ritual;
- (c) "criminal street gang activity" means the commission or attempted commission of, or solicitation or conspiracy to commit, one or more person felonies, person misdemeanors, felony violations of *K.S.A. 21-5701 through 21-5717*, and amendments thereto, *any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009*, or the comparable juvenile offenses, which if committed by an adult would constitute the commission of such felonies or misdemeanors on separate occasions;
- (d) "criminal street gang associate" means a person who:
- (1) Admits to criminal street gang association; or
 - (2) meets two or more defining criteria for criminal street gang membership described in subsection (b)(2); and
- (e) for purposes of law enforcement identification and tracking only "gang-related incident" means an incident that, upon investigation, meets any of the following conditions:
- (1) The participants are identified as criminal street gang members or criminal street gang associates, acting, individually or collectively, to further any criminal purpose of the gang;
 - (2) a state, county or city law enforcement officer or correctional officer or reliable informant identifies an incident as criminal street gang activity; or
 - (3) an informant of previously untested reliability identifies an incident as criminal street gang activity and it is corroborated by independent information.

21-6314 Recruiting criminal street gang membership

- (a) Recruiting criminal street gang membership is intentionally causing, encouraging, soliciting or recruiting another person to join a criminal street gang that requires, as a condition of membership or continued membership, the commission of any crime or membership initiation by submission to a sexual or physical assault that is criminal in nature, or would be criminal absent consent by the initiated.
- (b) Recruiting criminal street gang membership is a severity level 6, person felony.

21-6315 Criminal street gang intimidation

- (a) Criminal street gang intimidation is the communication, directly or indirectly with another, any threat of personal injury or actual personal injury to another or any threat of damage or actual damage to property of another with the intent to:
 - (1) Deter such person from assisting a criminal street gang member or associate to withdraw from such criminal street gang; or
 - (2) punish or retaliate against such person for having withdrawn from a criminal street gang.
- (b) Criminal street gang intimidation is a severity level 5, person felony.

21-6317 Endangering the food supply; aggravated endangering the food supply

- (a) Endangering the food supply is knowingly:
 - (1) Bringing into this state any domestic animal which is infected with any contagious or infectious disease or any animal which has been exposed to any contagious or infectious disease;
 - (2) exposing any animal in this state to any contagious or infectious disease;
 - (3) except as permitted under K.S.A. 2-2112 et seq., and amendments thereto, bringing or releasing into this state any plant pest as defined in K.S.A. 2-2113, and amendments thereto, or exposing any plant to a plant pest; or
 - (4) exposing any raw agricultural commodity, animal feed or processed food to any contaminant or contagious or infectious disease.

- (b) Aggravated endangering the food supply is endangering the food supply, as defined in subsection (a), when done with the intent to cause:
- (1) Damage to plants or animals or to cause economic harm or social unrest; or
 - (2) illness or injury or death to a human being or beings.
- (c)(1) Endangering the food supply is a:
- (A) Class A nonperson misdemeanor, except as provided in subsection (c)(1)(B); and
 - (B) severity level 4, nonperson felony when the contagious or infectious disease is foot-and-mouth disease.
- (2) Aggravated endangering the food supply as defined in:
- (A) Subsection (b)(1) is a severity level 3, nonperson felony; and
 - (B) subsection (b)(2) is a severity level 3, person felony.
- (d) The provisions of this section shall not apply to bona fide experiments and actions related thereto carried on by commonly recognized research facilities.
- (e) As used in this section:
- (1) “Animal feed” means an article which is intended for use for food for animals other than humans and which is intended for use as a substantial source of nutrients in the diet of the animal, and is not limited to a mixture intended to be the sole ration of the animal;
 - (2) “contagious or infectious disease” means any disease which can be spread from one subject to another by direct or indirect contact or by an intermediate agent, including, but not limited to, anthrax, all species of brucellosis, equine infectious anemia, hog cholera, pseudorabies, psoroptic mange, rabies, tuberculosis, vesicular stomatitis, avian influenza, pullorum, fowl typhoid, psittacosis, viscerotropic velogenic Newcastle disease, foot-and-mouth disease, rinderpest, African swine fever, piroplasmiasis, vesicular exanthema, Johne’s disease, scabies, scrapies, bovine leukosis and bovine spongiform encephalopathy;
 - (3) “processed food” means any food other than a raw agricultural commodity and includes any raw agricultural commodity that has been subject to processing, such as canning, cooking, freezing, dehydration or milling; and
 - (4) “raw agricultural commodity” means any food in its raw or natural state, including all fruits that are washed, colored or otherwise treated in their unpeeled natural form prior to marketing.
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21-6318 Creating a hazard
(UPOC §10.11)

- (a) Creating a hazard is recklessly:
- (1) Storing or abandoning, in any place accessible to children, a container which has a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot be easily opened from the inside, and failing to remove the door, lock, lid or fastening device on such container;
 - (2) being the owner or otherwise having possession of property upon which a cistern, well or cesspool is located, and failing to cover the same with protective covering of sufficient strength and quality to exclude human beings and domestic animals therefrom; or
 - (3) exposing, abandoning or otherwise leaving any explosive or dangerous substance in a place accessible to children.
- (b) Creating a hazard is a class B nonperson misdemeanor.
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21-6321 Alcohol without liquid machine
(UPOC §10.22)

- (a) It shall be unlawful for any person to knowingly:
- (1) Use any alcohol without liquid machine to inhale alcohol vapor or otherwise introduce alcohol in any form into the human body; or
 - (2) purchase, sell or offer for sale an alcohol without liquid machine.
- (b) Violation of this section is a class A nonperson misdemeanor.
- (c) As used in this section, “alcohol without liquid machine” means a device designed or marketed for the purpose of mixing alcohol with oxygen or another gas to produce a mist for inhalation for recreational purposes.

21-6322 Unlawfully tampering with electronic monitoring equipment

- (a) Unlawfully tampering with electronic monitoring equipment is, knowingly and without authorization, removing, disabling, altering, tampering with, damaging or destroying any electronic monitoring equipment used pursuant to court ordered supervision or as a condition of post-release supervision or parole.
- (b) Unlawfully tampering with electronic monitoring equipment is a severity level 6, nonperson felony.

21-6324 Unlawful possession or use of traffic control signal preemption devices**Amended 2011**

- (a) Unlawful possession or use of a traffic control signal preemption device is knowingly:
- (1) Possessing a traffic control signal preemption device;
 - (2) using a traffic control signal preemption device;
 - (3) selling a traffic control signal preemption device; or
 - (4) purchasing a traffic control signal preemption device.
- (b) Unlawful possession or use of a traffic control signal preemption device as defined in:**
- (1) Subsection (a)(1) is a class B misdemeanor;**
 - (2) subsection (a)(2):**
 - (A) Is a severity level 9, nonperson felony, except as provided in subsection (b)(2)(B) or (b)(2)(C);**
 - (B) which results in a traffic accident causing injury to any person or damage to any vehicle or other property is a severity level 7, person felony; and**
 - (C) which results in a traffic accident causing the death of any person is a severity level 5, person felony.**
 - (3) Subsection (a)(3) or (a)(4) is a severity level 9, nonperson felony.**
- (c) The provisions of this section shall not apply to the operator, passenger or owner of any of the following authorized emergency vehicles, in the course of such person's emergency duties:
- (1) Publicly owned fire department vehicles;
 - (2) publicly owned police vehicles; or
 - (3) motor vehicles operated by ambulance services permitted by the emergency medical services board under the provisions of K.S.A. 65-6101 et seq., and amendments thereto.
- (d) As used in this section, "traffic control signal preemption device" means any device, instrument or mechanism designed, intended or used to interfere with the operation or cycle of a traffic-control signal, as defined in K.S.A. 8-1478, and amendments thereto.
- (e) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for battery or any homicide.

21-6325 Unlawful interference with a firefighter**(UPOC §3.5)**

- (a) Unlawful interference with a firefighter is knowingly:
- (1) Interfering with any firefighter while engaged in the performance of such firefighter's duties; or
 - (2) obstructing, interfering with or impeding the efforts of any firefighter to reach the location of a fire or other emergency.
- (b) Unlawful interference with a firefighter is a class B person misdemeanor.
- (c) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for assault or battery.

21-6326 Unlawful interference with an emergency medical services attendant

- (a) Unlawful interference with an emergency medical services attendant is knowingly:
- (1) Interfering with any attendant while engaged in the performance of such attendant's duties, or
 - (2) obstructing, interfering with or impeding the efforts of any attendant to reach the location of an emergency.
- (b) Unlawful interference with an emergency medical services attendant is a class B person misdemeanor.
- (c) As used in this section, "attendant" means the same as in K.S.A. 65-6112, and amendments thereto.
- (d) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for assault or battery.

Note: Pursuant to K.S.A. 65-6112(f) “Attendant” means a first responder, an emergency medical responder, emergency medical technician, emergency medical technician-intermediate, emergency medical technician-defibrillator, emergency medical technician-intermediate/defibrillator, advanced emergency medical technician, mobile intensive care technician or paramedic certified pursuant to this act.

21-6401 Promoting obscenity; promoting obscenity to minors

(UPOC §§11.1 & 11.2)¹

Amended 2011

- (a) Promoting obscenity is recklessly:
- (1) Manufacturing, mailing, transmitting, publishing, distributing, presenting, exhibiting or advertising any obscene material or obscene device;
 - (2) possessing any obscene material or obscene device with intent to mail, transmit, publish, distribute, present, exhibit or advertise such material or device;
 - (3) offering or agreeing to manufacture, mail, transmit, publish, distribute, present, exhibit or advertise any obscene material or obscene device; or
 - (4) producing, presenting or directing an obscene performance or participating in a portion thereof which is obscene or which contributes to its obscenity.
- (b) Promoting obscenity to minors is promoting obscenity, as defined in subsection (a), where a recipient of the obscene material or obscene device or a member of the audience of an obscene performance is a child under the age of 18 years.
- (c)(1) Promoting obscenity is a:
- (A) Class A nonperson misdemeanor, except as provided in (c)(1)(B); and
 - (B) severity level 9, person felony upon a second or subsequent conviction.
- (2) Promoting obscenity to minors is a:
- (A) Class A nonperson misdemeanor, except as provided in (c)(2)(B); and
 - (B) severity level 8, person felony upon a second or subsequent conviction.
- (3) Conviction of a violation of a municipal ordinance prohibiting acts which constitute promoting obscenity or promoting obscenity to minors shall be considered a conviction of promoting obscenity or promoting obscenity to minors for the purpose of determining the number of prior convictions and the classification of the crime under this section.
- (d) Upon any conviction of promoting obscenity or promoting obscenity to minors, the court may require, in addition to any fine or imprisonment imposed, that the defendant enter into a reasonable recognizance with good and sufficient surety, in such sum as the court may direct, but not to exceed \$50,000, conditioned that, in the event the defendant is convicted of a subsequent offense of promoting obscenity **or promoting obscenity to minors** within two years after such conviction, the defendant shall forfeit the recognizance.
- (e) Evidence that materials or devices were promoted to emphasize their prurient appeal shall be relevant in determining the question of the obscenity of such materials or devices. There shall be a rebuttable presumption that a person promoting obscene materials or obscene devices did so knowingly or recklessly if:
- (1) The materials or devices were promoted to emphasize their prurient appeal; or
 - (2) the person is not a wholesaler and promotes the materials or devices in the course of the person’s business.
- (f) As used in this section:
- (1) Any material or performance is “obscene” if:
 - (A) The average person applying contemporary community standards would find that the material or performance, taken as a whole, appeals to the prurient interest;
 - (B) the average person applying contemporary community standards would find that the material or performance has patently offensive representations or descriptions of:
 - (i) Ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse or sodomy; or
 - (ii) masturbation, excretory functions, sadomasochistic abuse or lewd exhibition of the genitals; and

- (C) taken as a whole, a reasonable person would find that the material or performance lacks serious literary, educational, artistic, political or scientific value;
- (2) “material” means any tangible thing which is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound or other manner;
- (3) “obscene device” means a device, including a dildo or artificial vagina, designed or marketed as useful primarily for the stimulation of human genital organs, except such devices disseminated or promoted for the purpose of medical or psychological therapy;
- (4) “performance” means any play, motion picture, dance or other exhibition performed before an audience;
- (5) “sexual intercourse” and “sodomy” mean the same as in *K.S.A. 21-5501*, and amendments thereto; and
- (6) “wholesaler” means a person who distributes or offers for distribution obscene materials or devices only for resale and not to the consumer and who does not manufacture, publish or produce such materials or devices.
- (g) It shall be a defense to a prosecution for promoting obscenity and promoting obscenity to minors that the:
- (1) Persons to whom the allegedly obscene material or obscene device was disseminated, or the audience to an allegedly obscene performance, consisted of persons or institutions having scientific, educational or governmental justification for possessing or viewing the same;
- (2) defendant is an officer, director, trustee or employee of a public library and the allegedly obscene material was acquired by such library and was disseminated in accordance with regular library policies approved by its governing body; or
- (3) allegedly obscene material or obscene device was purchased, leased or otherwise acquired by a public, private or parochial school, college or university, and that such material or device was either sold, leased, distributed or disseminated by a teacher, instructor, professor or other faculty member or administrator of such school as part of or incidental to an approved course or program of instruction at such school.
- (h) Notwithstanding the provisions of *K.S.A. 21-5204*, and amendments thereto, to the contrary, it shall be an affirmative defense to any prosecution for promoting obscenity to minors that:
- (1) The defendant had reasonable cause to believe that the minor involved was 18 years old or over, and such minor exhibited to the defendant a draft card, driver’s license, birth certificate or other official or apparently official document purporting to establish that such minor was 18 years old or more; or
- (2) an exhibition in a state of nudity is for a bona fide scientific or medical purpose, or for an educational or cultural purpose for a bona fide school, museum or library.
- (i) The provisions of this section and the provisions of ordinances of any city prescribing a criminal penalty for exhibit of any obscene motion picture shown in a commercial showing to the general public shall not apply to a projectionist, or assistant projectionist, if such projectionist or assistant projectionist has no financial interest in the show or in its place of presentation other than regular employment as a projectionist or assistant projectionist and no personal knowledge of the contents of the motion picture. The provisions of this section shall not exempt any projectionist or assistant projectionist from criminal liability for any act unrelated to projection of motion pictures in commercial showings to the general public.
- ¹**Note:** UPOC §11.1 relates to subsection (a), UPOC §11.2 relates to subsection (b).

21-6402 Promotion to minors of material harmful to minors
(UPOC §11.7)

- (a) No person having custody, control or supervision of any commercial establishment shall knowingly:
- (1) Display any material which is harmful to minors in such a way that minors, as a part of the invited general public, will be exposed to view such material or device;
- (2) present or distribute to a minor, or otherwise allow a minor to view, with or without consideration, any material which is harmful to minors; or
- (3) present to a minor, or participate in presenting to a minor, with or without consideration, any performance which is harmful to a minor.
- (b) Violation of this section is a class B nonperson misdemeanor.
- (c) Notwithstanding the provisions of *K.S.A. 21-5204*, and amendments thereto, to the contrary, it shall be an affirmative defense to any prosecution under this section that:

- (1) The allegedly harmful material or device was purchased, leased or otherwise acquired by a public, private or parochial school, college or university, and that such material or device was either sold, leased, distributed or disseminated by a teacher, instructor, professor or other faculty member or administrator of such school as part of or incident to an approved course or program of instruction at such school;
 - (2) the defendant is an officer, director, trustee or employee of a public library and the allegedly harmful material or device was acquired by a public library and was disseminated in accordance with regular library policies approved by its governing body;
 - (3) an exhibition in a state of nudity is for a bona fide scientific or medical purpose, or for an educational or cultural purpose for a bona fide school, museum or library;
 - (4) with respect to a prosecution for an act described by subsection (a)(1), the allegedly harmful material was kept behind blinder racks;
 - (5) with respect to a prosecution for an act described by subsection (a)(2) or (3), the defendant had reasonable cause to believe that the minor involved was 18 years old or over, and such minor exhibited to the defendant a draft card, driver's license, birth certificate or other official or apparently official document purporting to establish that such minor was 18 years old or more; and
 - (6) with respect to a prosecution for an act described by subsection (a)(3), the allegedly harmful performance was viewed by the minor in the presence of such minor's parent or parents or such minor's legal guardian.
- (d) As used in this section:
- (1) "Blinder rack" means a device in which material is displayed in such a manner that the lower 2/3 of the material is not exposed to view;
 - (2) "harmful to minors" means that quality of any description, exhibition, presentation or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse when the material or performance, taken as a whole or, with respect to a prosecution for an act described by subsection (a)(1), that portion of the material that was actually exposed to the view of minors, has the following characteristics:
 - (A) The average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest in sex to minors;
 - (B) the average adult person applying contemporary community standards would find that the material or performance depicts or describes nudity, sexual conduct, sexual excitement or sadomasochistic abuse in a manner that is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors; and
 - (C) a reasonable person would find that the material or performance lacks serious literary, scientific, educational, artistic or political value for minors;
 - (3) "material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, record, recording tape or video tape;
 - (4) "minor" means any unmarried person under 18 years of age;
 - (5) "nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering; the showing of the female breast with less than a full opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernible state of sexual excitement;
 - (6) "performance" means any motion picture, film, video tape, played record, phonograph, tape recording, preview, trailer, play, show, skit, dance or other exhibition performed or presented to or before an audience of one or more, with or without consideration;
 - (7) "sadomasochistic abuse" means flagellation or torture by or upon a person clad in undergarments, in a mask or bizarre costume or in the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed;
 - (8) "sexual conduct" means acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's clothed or unclothed genitals or pubic area or buttocks or with a human female's breast; and
 - (9) "sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(e) The provisions of this section shall not apply to a retail sales clerk, if such clerk has no financial interest in the materials or performance or in the commercial establishment displaying, presenting or distributing such materials or presenting such performance other than regular employment as a retail sales clerk. The provisions of this section shall not exempt any retail sales clerk from criminal liability for any act unrelated to regular employment as a retail sales clerk.

21-6403 Definitions—Gambling

(UPOC §11.8)

As used in K.S.A. 21-6403 through 21-6409, and amendments thereto:

- (a) “Bet” means a bargain in which the parties agree that, dependent upon chance, one stands to win or lose something of value specified in the agreement. A bet does not include:
- (1) Bona fide business transactions which are valid under the law of contracts including, but not limited to, contracts for the purchase or sale at a future date of securities or other commodities, and agreements to compensation for loss caused by the happening of the chance including, but not limited to, contracts of indemnity or guaranty and life or health and accident insurance;
 - (2) offers of purses, prizes or premiums to the actual contestants in any bona fide contest for the determination of skill, speed, strength or endurance or to the bona fide owners of animals or vehicles entered in such a contest;
 - (3) a lottery as defined in this section;
 - (4) any bingo game by or for participants managed, operated or conducted in accordance with the laws of the state of Kansas by an organization licensed by the state of Kansas to manage, operate or conduct games of bingo;
 - (5) a lottery operated by the state pursuant to the Kansas lottery act;
 - (6) any system of parimutuel wagering managed, operated and conducted in accordance with the Kansas parimutuel racing act; or
 - (7) tribal gaming;
- (b) “lottery” means an enterprise wherein for a consideration the participants are given an opportunity to win a prize, the award of which is determined by chance. A lottery does not include:
- (1) A lottery operated by the state pursuant to the Kansas lottery act; or
 - (2) tribal gaming;
- (c) “consideration” means anything which is a commercial or financial advantage to the promoter or a disadvantage to any participant. Mere registration without purchase of goods or services; personal attendance at places or events, without payment of an admission price or fee; listening to or watching radio and television programs; answering the telephone or making a telephone call and acts of like nature are not consideration. “Consideration” shall not include sums of money paid by or for:
- (1) Participants in any bingo game managed, operated or conducted in accordance with the laws of the state of Kansas by any bona fide nonprofit religious, charitable, fraternal, educational or veteran organization licensed to manage, operate or conduct bingo games under the laws of the state of Kansas and it shall be conclusively presumed that such sums paid by or for such participants were intended by such participants to be for the benefit of the sponsoring organizations for the use of such sponsoring organizations in furthering the purposes of such sponsoring organizations, as set forth in the appropriate paragraphs of subsection (c) or (d) of section 501 of the internal revenue code of 1986 and as set forth in K.S.A. 79-4701, and amendments thereto;
 - (2) participants in any lottery operated by the state pursuant to the Kansas lottery act;
 - (3) participants in any system of parimutuel wagering managed, operated and conducted in accordance with the Kansas parimutuel racing act; or
 - (4) a person to participate in tribal gaming;
- (d)(1) “gambling device” means any:
- (A) So-called “slot machine” or any other machine, mechanical device, electronic device or other contrivance an essential part of which is a drum or reel with insignia thereon, and:
 - (i) Which when operated may deliver, as the result of chance, any money or property; or

(ii) by the operation of which a person may become entitled to receive, as the result of chance, any money or property;

(B) other machine, mechanical device, electronic device or other contrivance including, but not limited to, roulette wheels and similar devices, which are equipped with or designed to accommodate the addition of a mechanism that enables accumulated credits to be removed, is equipped with or designed to accommodate a mechanism to record the number of credits removed or is otherwise designed, manufactured or altered primarily for use in connection with gambling, and:

(i) Which when operated may deliver, as the result of chance, any money or property; or

(ii) by the operation of which a person may become entitled to receive, as the result of chance, any money or property;

(C) subassembly or essential part intended to be used in connection with any such machine, mechanical device, electronic device or other contrivance, but which is not attached to any such machine, mechanical device, electronic device or other contrivance as a constituent part; or

(D) any token, chip, paper, receipt or other document which evidences, purports to evidence or is designed to evidence participation in a lottery or the making of a bet.

The fact that the prize is not automatically paid by the device does not affect its character as a gambling device.

(2) "Gambling device" shall not include:

(A) Any machine, mechanical device, electronic device or other contrivance used or for use by a licensee of the Kansas racing commission as authorized by law and rules and regulations adopted by the commission or by the Kansas lottery or Kansas lottery retailers as authorized by law and rules and regulations adopted by the Kansas lottery commission;

(B) any machine, mechanical device, electronic device or other contrivance, such as a coin-operated bowling alley, shuffleboard, marble machine, a so-called pinball machine, or mechanical gun, which is not designed and manufactured primarily for use in connection with gambling, and:

(i) Which when operated does not deliver, as a result of chance, any money; or

(ii) by the operation of which a person may not become entitled to receive, as the result of the application of an element of chance, any money;

(C) any so-called claw, crane or digger machine and similar devices which are designed and manufactured primarily for use at carnivals or county or state fairs; or

(D) any machine, mechanical device, electronic device or other contrivance used in tribal gaming;

(e) "gambling place" means any place, room, building, vehicle, tent or location which is used for any of the following: Making and settling bets; receiving, holding, recording or forwarding bets or offers to bet; conducting lotteries; or playing gambling devices. Evidence that the place has a general reputation as a gambling place or that, at or about the time in question, it was frequently visited by persons known to be commercial gamblers or known as frequenters of gambling places is admissible on the issue of whether it is a gambling place;

(f) "tribal gaming" means the same as in K.S.A. 74-9802, and amendments thereto; and

(g) "tribal gaming commission" means the same as in K.S.A. 74-9802, and amendments thereto.

21-6404 Gambling

(UPOC §11.8)

(a) Gambling is:

(1) Making a bet; or

(2) entering or remaining in a gambling place with intent to make a bet, to participate in a lottery or to play a gambling device.

(b) Gambling is a class B nonperson misdemeanor.

21-6406 Commercial gambling; permitting premises to be used for commercial gambling

(UPOC §11.9)

(a) Commercial gambling is knowingly:

(1)(A) Operating or receiving all or part of the earnings of a gambling place;

- (B) receiving, recording or forwarding bets or offers to bet or, with intent to receive, record or forward bets or offers to bet, possessing facilities to do so;
 - (C) for gain, becoming a custodian of anything of value bet or offered to be bet;
 - (D) conducting a lottery, or with intent to conduct a lottery possessing facilities to do so; or
 - (E) setting up for use or collecting the proceeds of any gambling device; or
- (2)(A) granting the use or allowing the continued use of a place as a gambling place; or
- (B) permitting another to set up a gambling device for use in a place under the offender's control.
- (b) Commercial gambling as defined in:
- (1) Subsection (a)(1) is a severity level 8, nonperson felony.
 - (2) Subsection (a)(2) is a class B nonperson misdemeanor.
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21-6408 Unlawful possession of a gambling device
(UPOC §11.10)

- (a) It shall be unlawful for any person to possess a gambling device.
- (b) Violation of this section is a class B nonperson misdemeanor.
- (c) It shall be a defense to a prosecution under this section that:
- (1) The gambling device is an antique slot machine and that the antique slot machine was not operated for gambling purposes while in the owner's or the defendant's possession. A slot machine shall be deemed an antique slot machine if it was manufactured prior to the year 1950; or
 - (2) the gambling device is possessed or under custody or control of a manufacturer registered under the federal gambling devices act of 1962 (15 U. S.C. 1171 et seq.) or a transporter under contract with such manufacturer with intent to distribute for use:
 - (A) By the Kansas lottery or Kansas lottery retailers as authorized by law and rules and regulations adopted by the Kansas lottery commission;
 - (B) by a licensee of the Kansas racing commission as authorized by law and rules and regulations adopted by the commission;
 - (C) in a state other than the state of Kansas; or
 - (D) in tribal gaming.
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21-6412 Cruelty to animals
(UPOC §11.11)

Amended 2011

- (a) Cruelty to animals is:
- (1) Knowingly and maliciously killing, injuring, maiming, torturing, burning or mutilating any animal;
 - (2) knowingly abandoning any animal in any place without making provisions for its proper care;
 - (3) having physical custody of any animal and knowingly failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal;
 - (4) intentionally using a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment;
 - (5) knowingly but not maliciously killing or injuring any animal; or
 - (6) **knowingly and maliciously** administering any poison to any domestic animal.
- (b) Cruelty to animals as defined in:
- (1) Subsection (a)(1) or (a)(6) is a nonperson felony. Upon conviction of subsection (a)(1) or (a)(6), a person shall be sentenced to not less than 30 days or more than one year's imprisonment and be fined not less than \$500 nor more than \$5,000. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein. During the mandatory 30 days imprisonment, such offender shall have a psychological evaluation prepared for the court to assist the court in determining conditions of probation. Such conditions shall include, but not be limited to, the completion of an anger management program; and
 - (2) subsection (a)(2), (a)(3), (a)(4) or (a)(5) *is* a:
 - (A) Class A nonperson misdemeanor, except as provided in subsection (b)(2)(B); and

(B) nonperson felony upon the second or subsequent conviction of cruelty to animals as defined in subsection (a)(2), (a)(3), (a)(4) or (a)(5). Upon such conviction, a person shall be sentenced to not less than five days or more than one year's imprisonment and be fined not less than \$500 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein.

(c) The provisions of this section shall not apply to:

- (1) Normal or accepted veterinary practices;
- (2) bona fide experiments carried on by commonly recognized research facilities;
- (3) killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of chapter 32 or chapter 47 of the Kansas Statutes Annotated, and amendments thereto;
- (4) rodeo practices accepted by the rodeo cowboys' association;
- (5) the humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter, pound or licensed veterinarian is within the city, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, the operator of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;
- (6) with respect to farm animals, normal or accepted practices of animal husbandry, including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;
- (7) the killing of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property;
- (8) an animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;
- (9) laying an equine down for medical or identification purposes;
- (10) normal or accepted practices of pest control, as defined in subsection (x) of K.S.A. 2-2438a, and amendments thereto; or
- (11) accepted practices of animal husbandry pursuant to regulations promulgated by the United States department of agriculture for domestic pet animals under the animal welfare act, public law 89-544, as amended and in effect on July 1, 2006.

(d) The provisions of subsection (a)(6) shall not apply to any person exposing poison upon their premises for the purpose of destroying wolves, coyotes or other predatory animals.

(e) Any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of a duly incorporated humane society or licensed veterinarian for treatment, boarding or other care or, if an officer of such humane society or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane killing. If the animal is placed in the care of an animal shelter, the animal shelter shall notify the owner or custodian, if known or reasonably ascertainable. If the owner or custodian is charged with a violation of this section, the board of county commissioners in the county where the animal was taken into custody shall establish and approve procedures whereby the animal shelter may petition the district court to be allowed to place the animal for adoption or euthanize the animal at any time after **21 days** after the owner or custodian is notified or, if the owner or custodian is not known or reasonably ascertainable after **21 days** after the animal is taken into custody, unless the owner or custodian of the animal files a renewable cash or performance bond with the county clerk of the county where the animal is being held, in an amount equal to not less than the cost of care and treatment of the animal for 30 days. Upon receiving

such petition, the court shall determine whether the animal may be placed for adoption or euthanized. The board of county commissioners in the county where the animal was taken into custody shall review the cost of care and treatment being charged by the animal shelter maintaining the animal.

- (f) The owner or custodian of an animal placed for adoption or killed pursuant to subsection (e) shall not be entitled to recover damages for the placement or killing of such animal unless the owner proves that such placement or killing was unwarranted.
- (g) Expenses incurred for the care, treatment or boarding of any animal, taken into custody pursuant to subsection (e), pending prosecution of the owner or custodian of such animal for the crime of cruelty to animals, shall be assessed to the owner or custodian as a cost of the case if the owner or custodian is adjudicated guilty of such crime.
- (h) Upon the filing of a sworn complaint by any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility alleging the commission of cruelty to animals, the county or district attorney shall determine the validity of the complaint and shall forthwith file charges for the crime if the complaint appears to be valid.
- (i) If a person is adjudicated guilty of the crime of cruelty to animals, and the court having jurisdiction is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposition.
- (j) As used in this section:
 - (1) "Equine" means a horse, pony, mule, jenny, donkey or hinny; and
 - (2) "maliciously" means a state of mind characterized by actual evil-mindedness or specific intent to do a harmful act without a reasonable justification or excuse.

21-6414 Unlawful conduct of dog fighting; unlawful attendance of dog fighting; unlawful possession of dog fighting paraphernalia; unlawful attendance of dog fight

Amended 2011

- (a) Unlawful conduct of dog fighting is:
 - (1) Causing, for amusement or gain, any dog to fight with or injure another dog, ***with no requirement of culpable mental state***;
 - (2) knowingly permitting such fighting or injuring on premises under one's ownership, charge or control; or
 - (3) training, owning, keeping, transporting or selling any dog with the intent of having it fight with or injure another dog.
- (b) Unlawful possession of dog fighting paraphernalia is possession, with the intent to use in the unlawful conduct of dog fighting, any breaking stick, treadmill, wheel, hot walker, cat mill, cat walker, jenni, or other paraphernalia.
- (c) Unlawful attendance of dog fighting is, entering or remaining on the premises where the unlawful conduct of dog fighting is occurring, whether the person knows or has reason to know that dog fighting is occurring on the premises.
- (d)(1) Unlawful conduct of dog fighting is a severity level 10, non-person felony.
 - (2) Unlawful possession of dog fighting paraphernalia is a class A non-person misdemeanor.
 - (3) Unlawful attendance of dog fighting is a class B nonperson misdemeanor.
- (e) When a person is arrested under this section, a law enforcement agency may take into custody any dog on the premises where the dog fight is alleged to have occurred and any dog owned or kept on the premises of any person arrested for unlawful conduct of dog fighting, unlawful attendance of dog fighting, or unlawful possession of dog fighting paraphernalia.
- (f) When a law enforcement agency takes custody of a dog under this section, such agency may place the dog in the care of a duly incorporated humane society or licensed veterinarian for boarding, treatment or other care. If it appears to a licensed veterinarian that the dog is diseased or disabled beyond recovery for any useful purpose, such dog may be humanely killed. The dog may be sedated, isolated or restrained if such officer, agent or veterinarian determines it to be in the best interest of the dog, other animals at the animal shelter or personnel of the animal shelter. If the dog is placed in the care of an animal shelter, the board of county com-

missioners in the county where the animal was taken into custody shall establish and approve procedures whereby the animal shelter may petition the district court to be allowed to place the dog for adoption or euthanize the dog at any time after **21 days** after the dog is taken into custody, unless the owner or custodian of the dog files a renewable cash or performance bond with the county clerk of the county where the dog is being held, in an amount equal to not less than the cost of care and treatment of the dog for 30 days. Upon receiving such petition, the court shall determine whether the dog may be placed for adoption or euthanized. The board of county commissioners in the county where the animal was taken into custody shall review the cost of care and treatment being charged by the animal shelter maintaining the animal. Except as provided in subsection (g), if it appears to the licensed veterinarian by physical examination that the dog has not been trained for aggressive conduct or is a type of dog that is not commonly bred or trained for aggressive conduct, the district or county attorney shall order that the dog be returned to its owner when the dog is not needed as evidence in a case filed under this section or **K.S.A. 21-6412**, and amendments thereto. The owner or keeper of a dog placed for adoption or humanely killed under this subsection shall not be entitled to damages unless the owner or keeper proves that such placement or killing was unwarranted.

(g) If a person is convicted of unlawful conduct of dog fighting, unlawful attendance of dog fighting or unlawful possession of dog fighting paraphernalia, a dog taken into custody pursuant to subsection (e) shall not be returned to such person and the court shall order the owner or keeper to pay to the animal shelter all expenses incurred for the care, treatment and boarding of such dog, including any damages caused by such dog, prior to conviction of the owner or keeper. Disposition of such dog shall be in accordance with **K.S.A. 21-6412**, and amendments thereto. If no such conviction results, the dog shall be returned to the owner or keeper and the court shall order the county where the dog was taken into custody to pay to the animal shelter all expenses incurred by the shelter for the care, treatment and boarding of such dog, including any damages caused by such dog, prior to its return.

(h) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for cruelty to animals.

21-6415 Illegal ownership or keeping of an animal

(a) Illegal ownership or keeping of an animal is, with no requirement of a culpable mental state, owning, or keeping on one's premises, an animal by a person convicted of unlawful conduct of dog fighting as defined in K.S.A. 21-6414, and amendments thereto, or cruelty to animals as defined in subsection (a)(1) of K.S.A. 21-6412, and amendments thereto, within five years of the date of such conviction.

(b) Illegal ownership or keeping of an animal is a class B nonperson misdemeanor.

21-6416 Harming or killing certain dogs

(a) Inflicting harm, disability or death to a police dog, arson dog, assistance dog, game warden dog or search and rescue dog is knowingly, and without lawful cause or justification poisoning, inflicting great bodily harm, permanent disability or death, upon a police dog, arson dog, assistance dog, game warden dog or search and rescue dog.

(b) Inflicting harm, disability or death to a police dog, arson dog, assistance dog, game warden dog or search and rescue dog is a nonperson felony. Upon conviction of this subsection, a person shall be sentenced to not less than 30 days or more than one year's imprisonment and be fined not less than \$500 nor more than \$5,000. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein. During the mandatory 30 days imprisonment, such offender shall have a psychological evaluation prepared for the court to assist the court in determining conditions of probation. Such conditions shall include, but not be limited to, the completion of an anger management program.

(c) As used in this section:

(1) "Arson dog" means any dog which is owned, or the service of which is employed, by the state fire marshal or a fire department for the principal purpose of aiding in the detection of liquid accelerants in the investigation of fires;

(2) "assistance dog" has the meaning provided by K.S.A. 39-1113, and amendments thereto;

- (3) “fire department” means a public fire department under the control of the governing body of a city, township, county, fire district or benefit district or a private fire department operated by a nonprofit corporation providing fire protection services for a city, township, county, fire district or benefit district under contract with the governing body of the city, township, county or district;
- (4) “game warden dog” means any dog which is owned, or the service of which is employed, by the department of wildlife and parks for the purpose of aiding in detection of criminal activity, enforcement of laws, apprehension of offenders or location of persons or wildlife;
- (5) “police dog” means any dog which is owned, or the service of which is employed, by a law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws or apprehension of offenders; and
- (6) “search and rescue dog” means any dog which is owned or the service of which is employed, by a law enforcement or emergency response agency for the purpose of aiding in the location of persons missing in disasters or other times of need.

21-6417 Unlawful conduct of cockfighting; unlawful possession of cockfighting paraphernalia; unlawful attendance of cockfighting
(UPOC §11.12)

Amended 2011

- (a) Unlawful conduct of cockfighting is:
- (1) Causing, for amusement or gain, any gamecock to fight with or injure or kill another gamecock, *with no requirement of culpable mental state*;
 - (2) knowingly permitting such fighting or injuring on premises under one’s ownership, charge or control;
 - (3) training, grooming, preparing or medicating any gamecock with the intent of having it fight with or injure or kill another gamecock.
- (b) Unlawful possession of cockfighting paraphernalia is possession of, *with the intent to use in the unlawful conduct of cockfighting*, spurs, gaffs, swords, leather training spur covers or anything worn by a gamecock during a fight to further the killing power of such gamecock.
- (c) Unlawful attendance of cockfighting is entering or remaining on the premises where the unlawful conduct of cockfighting is occurring, whether or not the person knows or has reason to know that cockfighting is occurring on the premises.
- (d)(1) Unlawful conduct of cockfighting is a level 10, nonperson felony.
(2) Unlawful possession of cockfighting paraphernalia is a class A nonperson misdemeanor.
(3) Unlawful attendance of cockfighting is a class B nonperson misdemeanor.
- (e) As used in this section, “gamecock” means a domesticated fowl that is bred, reared or trained for the purpose of fighting with other fowl.
- (f) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for cruelty to animals.

21-6418 Permitting a dangerous animal to be at large

- (a) Permitting a dangerous animal to be at large is the act or omission of the owner or custodian of an animal of dangerous or vicious propensities who, knowing of such propensities, permits such animal to go at large or keeps such animal without taking ordinary care to restrain it.
- (b) Permitting a dangerous animal to be at large is a class B nonperson misdemeanor.

21-6419 Prostitution
(UPOC §4.3)

- (a) Prostitution is performing for hire, or offering or agreeing to perform for hire where there is an exchange of value, any of the following acts:
- (1) Sexual intercourse;
 - (2) sodomy; or
 - (3) manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another.
- (b) Prostitution is a class B nonperson misdemeanor.

21-6420 Promoting prostitution

(UPOC §4.4)

Amended 2011

- (a) Promoting prostitution is knowingly:
- (1) Establishing, owning, maintaining or managing a house of prostitution, or participating in the establishment, ownership, maintenance or management thereof;
 - (2) permitting any place partially or wholly owned or controlled by the defendant to be used as a house of prostitution;
 - (3) procuring a prostitute for a house of prostitution;
 - (4) inducing another to become a prostitute;
 - (5) soliciting a patron for a prostitute or for a house of prostitution;
 - (6) procuring a prostitute for a patron;
 - (7) procuring transportation for, paying for the transportation of, or transporting a person within this state with the intention of assisting or promoting that person's engaging in prostitution; or
 - (8) being employed to perform any act which is prohibited by this section.
- (b)(1) Promoting prostitution is a:
- (A) Class A person misdemeanor when the prostitute is 16 or more years of age, except as provided in **subsection (b)(1)(B)**;
 - (B) severity level 7, person felony when the prostitute is 16 or more years of age and committed by a person who has, prior to the commission of the crime, been convicted of promoting prostitution; **and**
 - (C) severity level 6, person felony when the prostitute is under 16 years of age, except as provided in **subsection (b)(2)**.
- (2) **Promoting prostitution or attempt, conspiracy or criminal solicitation to commit promoting prostitution is an** off-grid person felony when the offender is 18 years of age or older and the prostitute is less than 14 years of age.
- (c) **If the offender is 18 years of age or older and the victim is less than 14 years of age, the provisions of:**
- (1) **Subsection (c) of K.S.A. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of promoting prostitution as described in subsection (b)(2);**
 - (2) **subsection (c) of K.S.A. 21-5302, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of promoting prostitution as described in subsection (b)(2); and**
 - (3) **subsection (d) of K.S.A. 21-5303, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of promoting prostitution as described in subsection (b)(2).**

21-6421 Patronizing a prostitute

(UPOC §4.5)

- (a) Patronizing a prostitute is knowingly:
- (1) Entering or remaining in a house of prostitution with intent to engage in sexual intercourse, sodomy or any unlawful sexual act with a prostitute; or
 - (2) hiring a prostitute to engage in sexual intercourse, sodomy or any unlawful sexual act.
- (b) Patronizing a prostitute is a class C misdemeanor.

Chapter 22

22-2202 Definitions-Criminal procedure

- (1) "Appellate court" means the supreme court or court of appeals, depending on the context in which the term is used and the respective jurisdiction of those courts over appeals in criminal cases, as provided in K.S.A. 22-3601 and amendments thereto.
- (2) "Appearance bond" means an agreement, with or without security, entered into by a person in custody by which the person is bound to comply with the conditions specified in the agreement.
- (3) "Arraignment" means the formal act of calling the defendant before a court having jurisdiction to impose sentence for the offense charged, informing the defendant of the offense with which the defendant is charged, and asking the defendant whether the defendant is guilty or not guilty.
- (4) "Arrest" means the taking of a person into custody in order that the person may be forthcoming to answer for the commission of a crime. The giving of a notice to appear is not an arrest.
- (5) "Bail" means the security given for the purpose of insuring compliance with the terms of an appearance bond.
- (6) "Bind over" means require a defendant to appear and answer before a district judge having jurisdiction to try the defendant for the felony with which the defendant is charged.
- (7) "Charge" means a written statement presented to a court accusing a person of the commission of a crime and includes a complaint, information or indictment.
- (8) "Complaint" means a written statement under oath of the essential facts constituting a crime, except that a citation or notice to appear issued by a law enforcement officer pursuant to and in compliance with K.S.A. 8-2106 and amendments thereto or a citation or notice to appear issued pursuant to and in compliance with K.S.A. 32-1049 shall be deemed a valid complaint if it is signed by the law enforcement officer.
- (9) "Custody" means the restraint of a person pursuant to an arrest or the order of a court or magistrate.
- (10) "Detention" means the temporary restraint of a person by a law enforcement officer.
- (11) "Indictment" means a written statement, presented by a grand jury to a court, which charges the commission of a crime.
- (12) "Information" means a verified written statement signed by a county attorney or other authorized representative of the state of Kansas presented to a court, which charges the commission of a crime. An information verified upon information and belief by the county attorney or other authorized representative of the state of Kansas shall be sufficient.
- (13) "Law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for violation of the laws of the state of Kansas or ordinances of any municipality thereof or with a duty to maintain or assert custody or supervision over persons accused or convicted of crime, and includes court services officers, parole officers and directors, security personnel and keepers of correctional institutions, jails or other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority.
- (14) "Magistrate" means an officer having power to issue a warrant for the arrest of a person charged with a crime and includes justices of the supreme court, judges of the court of appeals and judges of district courts.
- (15) "Notice to appear" means a written request, issued by a law enforcement officer, that a person appear before a designated court at a stated time and place.
- (16) "Preliminary examination" means a hearing before a magistrate on a complaint or information to determine if a felony has been committed and if there is probable cause to believe that the person charged committed it.
- (17) "Prosecuting attorney" means any attorney who is authorized by law to appear for and on behalf of the state of Kansas in a criminal case, and includes the attorney general, an assistant attorney general, the county or district attorney, an assistant county or district attorney and any special prosecutor whose appearance is approved by the court. In the case of prosecution for violation of a city ordinance, also, "prosecuting attorney" means the city attorney or any assistant city attorney.

(18) “Search warrant” means a written order made by a magistrate directed to a law enforcement officer commanding the officer to search the premises described in the search warrant and to seize property described or identified in the search warrant.

(19) “Summons” means a written order issued by a magistrate directing that a person appear before a designated court at a stated time and place and answer to a charge pending against the person.

(20) “Warrant” means a written order made by a magistrate directed to any law enforcement officer commanding the officer to arrest the person named or described in the warrant.

22-2401 Arrest by law enforcement officer

A law enforcement officer may arrest a person under any of the following circumstances:

(a) The officer has a warrant commanding that the person be arrested.

(b) The officer has probable cause to believe that a warrant for the person’s arrest has been issued in this state or in another jurisdiction for a felony committed therein.

(c) The officer has probable cause to believe that the person is committing or has committed:

(1) A felony; or

(2) a misdemeanor, and the law enforcement officer has probable cause to believe that:

(A) The person will not be apprehended or evidence of the crime will be irretrievably lost unless the person is immediately arrested;

(B) the person may cause injury to self or others or damage to property unless immediately arrested; or

(C) the person has intentionally inflicted bodily harm to another person.

(d) Any crime, except a traffic infraction or a cigarette or tobacco infraction, has been or is being committed by the person in the officer’s view.

22-2402 Stopping of suspect

(1) Without making an arrest, a law enforcement officer may stop any person in a public place whom such officer reasonably suspects is committing, has committed or is about to commit a crime and may demand of the name, address of such suspect and an explanation of such suspect’s actions.

(2) When a law enforcement officer has stopped a person for questioning pursuant to this section and reasonably suspects that such officer’s personal safety requires it, such officer may frisk such person for firearms or other dangerous weapons. If the law enforcement officer finds a firearm or weapon, or other thing, the possession of which may be a crime or evidence of crime, such officer may take and keep it until the completion of the questioning, at which time such officer shall either return it, if lawfully possessed, or arrest such person.

22-2403 Arrest by private person

A person who is not a law enforcement officer may arrest another person when:

(1) A felony has been or is being committed and the person making the arrest has probable cause to believe that the arrested person is guilty thereof; or

(2) any crime, other than a traffic infraction or a cigarette or tobacco infraction, has been or is being committed by the arrested person in the view of the person making the arrest.

22-2405 Method of arrest

(1) An arrest is made by an actual restraint of the person arrested or by his submission to custody.

(2) An arrest may be made on any day and at any time of the day or night.

(3) All necessary and reasonable force may be used to effect an entry upon any building or property or part thereof to make an authorized arrest.

22-3901 Abatement of common nuisances

The following unlawful activities and the use of real or personal property in maintaining and carrying on such activities are hereby declared to be common nuisances:

(a) Commercial gambling;

(b) dealing in gambling devices;

(c) possession of gambling devices;

(d) promoting obscenity;

- (e) promoting prostitution;
- (f) habitually promoting prostitution;
- (g) violations of any law regulating controlled substances;
- (h) habitual violations of any law regulating the sale or exchange of alcoholic liquor or cereal malt beverages, by any person not licensed pursuant to chapter 41 of the Kansas Statutes Annotated;
- (i) habitual violations of any law regulating the sale or exchange of cigarettes or tobacco products, by any person not licensed pursuant to article 33 of chapter 79 of the Kansas Statutes Annotated;
- (j) any felony committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members. As used in this subsection, “criminal street gang” means any organization, association or group, whether formal or informal:
 - (1) Consisting of three or more persons;
 - (2) having as one of its primary activities the commission of one or more person felonies, person misdemeanors, felony violations of K.S.A. 21-5701 through 21-5717, and amendments thereto, any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009, or the comparable juvenile offenses, which if committed by an adult would constitute the commission of such felonies or misdemeanors;
 - (3) which has a common name or common identifying sign or symbol; and
 - (4) whose members, individually or collectively engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies, person misdemeanors, felony violations of K.S.A. 21-5701 through 21-5717, and amendments thereto, any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009, or the comparable juvenile offenses, which if committed by an adult would constitute the commission of such felonies or misdemeanors, or any substantially similar offense from another jurisdiction; or
- (k) use of pyrotechnics, pyrotechnic devices or pyrotechnic materials in violation of K.S.A. 31-170, and amendments thereto.

Any real property used as a place where any such activities are carried on or permitted to be carried on and any effects, equipment, paraphernalia, fixtures, appliances, musical instruments or other personal property designed for and used on such premises in connection with such unlawful activities are subject to the provisions of K.S.A. 22-3902, 22-3903 and 22-3904, and amendments thereto.

22-3905 Maintenance of a common nuisance

Added 2011

- (a) Maintenance of a common nuisance is maintaining or assisting in the maintenance of a common nuisance as described by K.S.A. 22-3901, and amendments thereto.*
- (b) Maintenance of a common nuisance is a class A, nonperson misdemeanor. In addition to the sentence authorized by law, the defendant may be fined in an amount not exceeding \$25,000.*
- (c) This section shall be part of and supplemental to article 39 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto.*

22-4902 Definitions—Sex offender registration

Amended 2011¹ [see endnote]

As used in the Kansas offender registration act, unless the context otherwise requires:

- (a) “Offender” means:
 - (1) A sex offender as defined in subsection (b);
 - (2) a violent offender as defined in *subsection (e)*;
 - (3) *a drug offender, as defined in subsection (f)*;
 - (4) any person who has been required to register under *out of state* law or is otherwise required to be registered; *and*
 - (5) *any person required by court order to register for an offense not otherwise required as provided in the Kansas offender registration act.*
- (b) “Sex offender” includes any person who:

- (1) On or after April 14, 1994, is convicted of any sexually violent crime set forth in subsection (c);
 - (2) *On or after April 14, 1994*, is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c), *unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim;*
 - (3) *has been determined to be a sexually violent predator, as defined in subsection (d);*
 - (4) *on or after May 29, 1997, is convicted of any of the following crimes when one of the parties involved is less than 18 years of age:*
 - (A) *Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or K.S.A. 21-5511, and amendments thereto;*
 - (B) *criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 21-5504 and amendments thereto;*
 - (C) *promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 21-6420, and amendments thereto;*
 - (D) *patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its repeal, or K.S.A. 21-6421, and amendments thereto; or*
 - (E) *lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior to its repeal, or K.S.A. 21-5513, and amendments thereto;*
 - (5) *is convicted of sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or subsection (a) of K.S.A. 21-5505, and amendments thereto;*
 - (6) *is convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or section K.S.A. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an offense defined in this subsection; or*
 - (7) *has been convicted of an offense in effect at any time prior to July 1, 2011, that is comparable to any crime defined in this subsection, or any out of state conviction for an offense that under the laws of this state would be an offense defined in this subsection.*
- (c) “Sexually violent crime” means:
- (1) Rape as defined in K.S.A. 21-3502, *prior to its repeal, or K.S.A. 21-5503*, and amendments thereto;
 - (2) indecent liberties with a child as defined in K.S.A. 21-3503, *prior to its repeal, or subsection (a) of K.S.A. 21-5506*, and amendments thereto;
 - (3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504, *prior to its repeal, or subsection (b) of K.S.A. 21-5506*, and amendments thereto;
 - (4) criminal sodomy as defined in subsection (a)(2) *or* (a)(3) of K.S.A. 21-3505, *prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A. 21-5504*, and amendments thereto;
 - (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, *prior to its repeal, or subsection (b) of K.S.A. 21-5504*, and amendments thereto;
 - (6) indecent solicitation of a child as defined *in* K.S.A. 21-3510, *prior to its repeal, or subsection (a) of K.S.A. 21-5508*, and amendments thereto;
 - (7) aggravated indecent solicitation of a child as defined *in* K.S.A. 21-3511, *prior to its repeal, or subsection (b) of K.S.A. 21-5508*, and amendments thereto;
 - (8) sexual exploitation of a child as defined *in* K.S.A. 21-3516, *prior to its repeal, or K.S.A. 21-5510*, and amendments thereto;
 - (9) aggravated sexual battery as defined *in* K.S.A. 21-3518, *prior to its repeal, or subsection (b) of K.S.A. 21-5505*, and amendments thereto;
 - (10) aggravated incest as defined *in* K.S.A. 21-3603, *prior to its repeal, or subsection (b) of K.S.A. 21-5604*, and amendments thereto;
 - (11) electronic solicitation as defined *in* K.S.A. 21-3523, *prior to its repeal, and section K.S.A. 21-5509*, and amendments thereto, committed on or after April 17, 2008;
 - (12) unlawful sexual relations as defined *in* K.S. A. 21-3520, *prior to its repeal, or K.S.A. 21-5512*, and amendments thereto, committed on or after July 1, 2010;

- (13) any conviction for an offense in effect at any time prior to **July 1, 2011**, that is comparable to a sexually violent crime as defined in **this subsection**, or any **out of** state conviction for an offense that under the laws of this state would be a sexually violent crime as defined in this **subsection**;
- (14) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, **prior to their repeal, or K.S.A. 21-5301, 21-5302 or 21-5303**, and amendments thereto, of a sexually violent crime, as defined in this **subsection**; or
- (15) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated, **unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim**. As used in this **paragraph**, “sexually motivated” means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant’s sexual gratification.
- (d) **“Sexually violent predator” means any person who, on or after July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto.**
- (e) “Violent offender” includes any person who:
- (1) On or after May 29, 1997, is convicted of any of the following crimes:
- (A) Capital murder, as defined **in** K.S.A. 21-3439, **prior to its repeal, or K.S.A. 21-5401**, and amendments thereto;
- (B) murder in the first degree, as defined **in** K.S.A. 21-3401, **prior to its repeal, or K.S.A. 21-5402**, and amendments thereto;
- (C) murder in the second degree, as defined **in** K.S.A. 21-3402, **prior to its repeal, or K.S.A. 21-5403**, and amendments thereto;
- (D) voluntary manslaughter, as defined **in** K.S. A. 21-3403, **prior to its repeal, or K.S.A. 21-5404**, and amendments thereto;
- (E) involuntary manslaughter, as defined **in** K. S.A. 21-3404, **prior to its repeal, or K.S.A. 21-5405**, and amendments thereto;
- (F) **kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or subsection (a) of K.S.A. 21-5408, and amendments thereto;**
- (G) **aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its repeal, or subsection (b) of K.S.A. 21-5408, and amendments thereto;**
- (H) **criminal restraint, as defined in K.S.A. 21-3424, prior to its repeal, or K.S.A. 21-5411, and amendments thereto, except by a parent, and only when the victim is less than 18 years of age; or**
- (I) **aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or subsection (b) of K.S.A. 21-5426, and amendments thereto;**
- (2) **on or after July 1, 2006, is convicted of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony;**
- (3) **has been convicted of** an offense in effect at any time prior to **July 1, 2011**, that is comparable to any crime defined in this subsection, or any **out of** state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or
- (4) **is convicted of** an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, **prior to their repeal, or K.S.A. 21-5301, 21-5302 or 21-5303**, and amendments thereto, of an offense defined in this subsection.
- (f) **“Drug offender” means any person who has been convicted of:**
- (1) **Unlawful manufacture or attempting such of any controlled substance or controlled substance analog as defined in K.S.A. 65-4159, prior to its repeal, or K.S.A. 21-5703, and amendments thereto;**
- (2) **possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance as defined in subsection (a) of K.S.A. 65-7006, prior to its repeal, or subsection (a) of K.S.A. 21-5709, and amendments thereto;**
- (3) **K.S.A. 65-4161, prior to its repeal, or subsection (a)(1) of K.S.A. 21-5705, and amendments thereto.**
- The provisions of this paragraph shall not apply to violations of subsections (a)(2) through (a)(6) or (b)**

- of K.S.A. 21-5705, and amendments thereto, which occurred on or after July 1, 2009, through April 15, 2010;*
- (4) an offense in effect at any time prior to July 1, 2011, that is comparable to any crime defined in this subsection, or any out of state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or*
- (5) an attempt, conspiracy or criminal solicitation, as defined in K.S. A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an offense defined in this subsection.*
- (g) Convictions which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this section. A conviction from any out of state court shall constitute a conviction for purposes of this section.*
- (h) "School" means any public or private educational institution, including, but not limited to, postsecondary school, college, university, community college, secondary school, high school, junior high school, middle school, elementary school, trade school, vocational school or professional school providing training or education to an offender.*
- (i) "Employment" means any full-time, part-time, transient or day-labor employment, with or without compensation.*
- (j) "Reside" means to stay, sleep or maintain with regularity one's person and property in a particular place other than a location where the offender is incarcerated. It shall be presumed that an offender resides at any and all locations where the offender stays, sleeps or maintains the offender's person for seven or more consecutive days or parts of days, or for seven or more non-consecutive days in a period of 30 consecutive days.*
- (k) "Residence" means a particular and definable place where an individual resides. Nothing in the Kansas offender registration act shall be construed to state that an offender may only have one residence for the purpose of such act.*
- (l) "Transient" means having no fixed or identifiable residence.*
- (m) "Law enforcement agency having initial jurisdiction" means the registering law enforcement agency of the county or location of jurisdiction where the offender expects to most often reside upon the offender's discharge, parole or release.*
- (n) "Registering law enforcement agency" means the sheriff's office or tribal police department responsible for registering an offender.*
- (o) "Registering entity" means any person, agency or other governmental unit, or correctional facility, treatment facility or registering law enforcement agency responsible for obtaining the required information from, and explaining the required registration procedures to, any person required to register pursuant to the Kansas offender registration act. "Registering entity" shall include, but not be limited to, sheriff's offices, tribal police departments, correctional facilities and treatment facilities.*
- (p) "Treatment facility" means any public or private facility, hospital or institution providing inpatient treatment or counseling.*
- (q) "Correctional facility" means any public or private correctional facility, juvenile detention facility, prison or jail.*
- (r) "Out of state" means: the District of Columbia; any federal, military, or tribal jurisdiction, including those within this state; any foreign jurisdiction; or any state or territory within the United States, other than this state.*
- (s) "Duration of registration" means the length of time during which an offender is required to register for a specified offense or violation.*

¹Note: The 2011 amendments resulted in two versions of this section, 22-4902 and 22-4902a.

22-4902a Definitions—Sex offender registration

Amended 2011¹ [see endnote]

As used in the Kansas offender registration act, unless the context otherwise requires:

(a) "Offender" means:

- (1) A sex offender as defined in subsection (b);
- (2) a violent offender as defined in subsection (d);
- (3) a sexually violent predator as defined in subsection (f);
- (4) any person who, on and after May 29, 1997, is convicted of any of the following crimes when the victim is less than 18 years of age:
 - (A) Kidnapping as defined in K.S.A. 21-3420, *prior to its repeal, or subsection (a) of K.S.A. 21-5408*, and amendments thereto, except by a parent;
 - (B) aggravated kidnapping as defined in K.S.A. 21-3421, *prior to its repeal, or subsection (b) of 21-5408*, and amendments thereto; or
 - (C) criminal restraint as defined in K.S.A. 21-3424, *prior to its repeal, or K.S.A. 21-5411*, and amendments thereto, except by a parent;
- (5) any person convicted of any of the following criminal sexual conduct if one of the parties involved is less than 18 years of age:
 - (A) Adultery as defined by K.S.A. 21-3507, *prior to its repeal, or K.S.A. 21-5511*, and amendments thereto;
 - (B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-3505, *prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 21-5504*, and amendments thereto;
 - (C) promoting prostitution as defined by K.S.A. 21-3513, *prior to its repeal, or K.S.A. 21-6420*, and amendments thereto;
 - (D) patronizing a prostitute as defined by K.S.A. 21-3515, *prior to its repeal, or K.S.A. 21-6421*, and amendments thereto; or
 - (E) lewd and lascivious behavior as defined by K.S.A. 21-3508, *prior to its repeal, or K.S.A. 21-5513*, and amendments thereto;
- (6) any person who has been required to register under any federal, military or other state's law or is otherwise required to be registered;
- (7) any person who, on or after July 1, 2006, is convicted of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony;
- (8) any person who has been convicted of an offense in effect at any time prior to May 29, 1997, that is comparable to any crime defined in subsection (4), (5), (7) or (11), or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in subsection (4), (5), (7) or (11);
- (9) any person who has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, *prior to their repeal, or K.S.A. 21-5301, 21-5302 or 21-5303*, and amendments thereto, of an offense defined in subsection (4), (5), (7) or (10);
- (10) any person who has been convicted of aggravated human trafficking as defined in K.S.A. 21-3447, *prior to its repeal, or subsection (b) of K.S.A. 21-5426*, and amendments thereto; or
- (11) any person who has been convicted of:
 - (A) Unlawful manufacture or attempting such of any controlled substance or controlled substance analog as defined by K.S.A. 65-4159, prior to its repeal, or K.S.A. 21-5703, and amendments thereto, unless the court makes a finding on the record that the manufacturing or attempting to manufacture such controlled substance was for such person's personal use;
 - (B) possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance as defined by subsection (a) of K.S.A. 65-7006, prior to its repeal, or subsection (a) of K.S.A. 21-5709, and amendments thereto, unless the court makes a finding on the record that the possession of such product was intended to be used to manufacture a controlled substance for such person's personal use; or
 - (C) K.S.A. 65-4161, prior to its repeal, or subsection (a)(1) of K.S.A. 21-5705, and amendments thereto.The provisions of this paragraph shall not apply to violations of subsections (a)(2) through (a)(6) or (b)

of K.S.A. 21-5705, and amendments thereto, which occurred on and after July 1, 2009, through *April 15, 2010*.

Convictions which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this section. A conviction from another state shall constitute a conviction for purposes of this section.

- (b) "Sex offender" includes any person who, on or after April 14, 1994, is convicted of any sexually violent crime set forth in subsection (c) or is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c).
- (c) "Sexually violent crime" means:
- (1) Rape as defined in K.S.A. 21-3502, *prior to its repeal, or K.S.A. 21-5503*, and amendments thereto;
 - (2) indecent liberties with a child as defined in K.S.A. 21-3503, *prior to its repeal, or subsection (a) of K.S.A. 21-5506*, and amendments thereto;
 - (3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504, *prior to its repeal, or subsection (b) of K.S.A. 21-5506*, and amendments thereto;
 - (4) criminal sodomy as defined in subsection (a)(2) *or* (a)(3) of K.S.A. 21-3505, *prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A. 21-5504*, and amendments thereto;
 - (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, *prior to its repeal, or subsection (b) of K.S.A. 21-5504*, and amendments thereto;
 - (6) indecent solicitation of a child as defined by K.S.A. 21-3510, *prior to its repeal, or subsection (a) of K.S.A. 21-5508*, and amendments thereto;
 - (7) aggravated indecent solicitation of a child as defined by K.S.A. 21-3511, *prior to its repeal, or subsection (b) of K.S.A. 21-5508*, and amendments thereto;
 - (8) sexual exploitation of a child as defined by K.S.A. 21-3516, *prior to its repeal, or K.S.A. 21-5510*, and amendments thereto;
 - (9) sexual battery as defined by K.S.A. 21-3517, *prior to its repeal, or subsection (a) of K.S.A. 21-5505*, and amendments thereto;
 - (10) aggravated sexual battery as defined by K.S.A. 21-3518, *prior to its repeal, or subsection (b) of K.S.A. 21-5505*, and amendments thereto;
 - (11) aggravated incest as defined by K.S.A. 21-3603, *prior to its repeal, or subsection (b) of K.S.A. 21-5604*, and amendments thereto;
 - (12) electronic solicitation as defined by K.S.A. 21-3523, *prior to its repeal, and K.S.A. 21-5509*, and amendments thereto, committed on or after April 17, 2008;
 - (13) unlawful sexual relations as defined by K.S.A. 21-3520, *prior to its repeal, or K.S.A. 21-5512*, and amendments thereto, committed on or after July 1, 2010;
 - (14) any conviction for an offense in effect at any time prior to April 29, 1993, that is comparable to a sexually violent crime as defined in subparagraphs (1) through (11), or any federal, military or other state conviction for an offense that under the laws of this state would be a sexually violent crime as defined in this section;
 - (15) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, *prior to their repeal, or K.S.A. 21-5301, 21-5302 or 21-5303*, and amendments thereto, of a sexually violent crime, as defined in this section; or
 - (16) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.
- (d) "Violent offender" includes any person who, on or after May 29, 1997, is convicted of any of the following crimes:
- (1) Capital murder as defined by K.S.A. 21-3439, prior to its repeal, or K.S.A. 21-5401, and amendments thereto;

- (2) murder in the first degree as defined by K.S.A. 21-3401, *prior to its repeal, or K.S.A. 21-5402*, and amendments thereto;
- (3) murder in the second degree as defined by K.S.A. 21-3402, *prior to its repeal, or K.S.A. 21-5403*, and amendments thereto;
- (4) voluntary manslaughter as defined by K.S.A. 21-3403, *prior to its repeal, or K.S.A. 21-5404*, and amendments thereto;
- (5) involuntary manslaughter as defined by K.S.A. 21-3404, *prior to its repeal, or K.S.A. 21-5405*, and amendments thereto;
- (6) any conviction for an offense in effect at any time prior to May 29, 1997, that is comparable to any crime defined in this subsection, or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or
- (7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, *prior to their repeal, or K.S.A. 21-5301, 21-5302 or 21-5303*, and amendments thereto, of an offense defined in this subsection.
- (e) “Law enforcement agency having jurisdiction” means the sheriff of the county in which the offender expects to reside upon the offender’s discharge, parole or release.
- (f) “Sexually violent predator” means any person who, on or after July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto.
- (g) “Nonresident student or worker” includes any offender who crosses into the state or county for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, for the purposes of employment, with or without compensation, or to attend school as a student.
- (h) “Aggravated offenses” means engaging in sexual acts involving penetration with victims of any age through the use of force or the threat of serious violence, or engaging in sexual acts involving penetration with victims less than 14 years of age, and includes the following offenses:
 - (1) Rape as defined in subsection (a)(1)(A) *or* (a)(2) of K.S.A. 21-3502, *prior to its repeal, or subsection (a)(1)(A) or (a)(3) of K.S.A. 21-5503*, and amendments thereto;
 - (2) aggravated criminal sodomy as defined in subsection (a)(1) *or* (a)(3)(A) of K.S.A. 21-3506, *prior to its repeal, or subsection (b)(1) or (b)(3)(A) of K.S.A. 21-5504*, and amendments thereto; and
 - (3) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, *prior to their repeal, or K.S.A. 21-5301, 21-5302 or 21-5303*, and amendments thereto, of an offense defined in this subsection.
- (i) “Institution of higher education” means any postsecondary school under the supervision of the Kansas board of regents.

¹**Note:** *The 2011 amendments resulted in two versions of this section, 22-4902 and 22-4902a.*

22-4903 Penalties—Failure to register as offender

Amended 2011

- (a) *Violation of the Kansas offender registration act is the failure by an offender, as defined in K.S.A. 22-4902, and amendments thereto, to comply with any and all provisions of such act, including any and all duties set forth in K.S.A. 22-4905 through 22-4907, and amendments thereto. Any violation of the Kansas offender registration act which continues for more than 30 consecutive days shall, upon the 31st consecutive day, constitute a new and separate offense, and shall continue to constitute a new and separate offense every 30 days thereafter for as long as the violation continues.*
- (b) *Aggravated violation of the Kansas offender registration act is violation of the Kansas offender registration act which continues for more than 180 consecutive days. Any aggravated violation of the Kansas offender registration act which continues for more than 180 consecutive days shall, upon the 181st consecutive day, constitute a new and separate offense, and shall continue to constitute a new and separate violation of the Kansas offender registration act every 30 days thereafter, or a new and separate aggravated violation of the Kansas offender registration act every 180 days thereafter, for as long as the violation continues.*
- (c)(1) *Violation of the Kansas offender registration act is:*

- (A) Upon a first conviction, a severity level 6, person felony;*
- (B) upon a second conviction, a severity level 5, person felony; and*
- (C) upon a third or subsequent conviction, a severity level 3, person felony.*
- (2) Aggravated violation of the Kansas offender registration act is a severity level 3, person felony.*
- (d) Prosecution of violations of this section may be held:*
 - (1) In any county in which the offender resides;*
 - (2) in any county in which the offender is required to be registered under the Kansas offender registration act;*
 - (3) in any county in which the offender is located during which time the offender is not in compliance with the Kansas offender registration act; or*
 - (4) in the county in which any conviction occurred for which the offender is required to be registered under the Kansas offender registration act.*

Note: The 2011 amendment deleted and rewrote this entire section.

22-4904 Registration of offender

Amended 2011

- (a) At the time of sentencing or disposition for an offense requiring registration as provided in K.S.A. 22-4902, and amendments thereto, the court shall:*
 - (1) Inform any offender, on the record, of the procedure to register and the requirements of K.S.A. 22-4905, and amendments thereto;*
 - (2) if the offender is released on probation, receiving a suspended sentence, sentenced to community corrections or released on postrelease supervision:*
 - (A) Complete the initial registration form with all information and updated information required for registration as provided in K.S.A. 22-4907, and amendments thereto;*
 - (B) require the offender to read and sign the registration form, which shall include a statement that the requirements provided in this subsection have been explained to the offender; and*
 - (C) order the offender to report within three business days to the registering law enforcement agency in the county or tribal land of conviction or adjudication and to the registering law enforcement agency in any place where the offender resides, maintains employment or attends school, to complete the registration form with all information and any updated information required for registration as provided in K.S.A. 22-4907, and amendments thereto;*
 - (3) if the offender is to remain in custody until sentencing, direct the correctional facility to complete the initial registration form within three business days for submission to the Kansas bureau of investigation, as set forth in subsection (b); and*
 - (4) ensure the age of the victim is documented in the journal entry of conviction or adjudication.*
- (b) The staff of any correctional facility shall:*
 - (1) Notify the Kansas bureau of investigation of the incarceration of any offender and of the location or any change in location of the offender while in custody;*
 - (2) prior to any offender being discharged, paroled, furloughed or released on work or school release from a correctional facility, or otherwise released from incarceration:*
 - (A) Inform the offender of the procedure for registration and of the offender's registration requirements as provided in K.S.A. 22-4905, and amendments thereto;*
 - (B) complete the registration form with all information and updated information required for registration as provided in K.S.A. 22-4907, and amendments thereto; and*
 - (C) require the offender to read and sign the registration form, which shall include a statement that the requirements provided in this subsection have been explained to the offender;*
 - (3) photograph the offender's face and any identifying marks;*
 - (4) provide one copy of the form to the offender and, within three days, send a copy of the form and of the photograph or photographs to the law enforcement agency having initial jurisdiction and to the Kansas bureau of investigation;*

- (5) notify the law enforcement agency having initial jurisdiction and the Kansas bureau of investigation seven business days prior to any offender being discharged, paroled, furloughed or released on work or school release; and*
- (6) enter all offender information required by the national crime information center into the national sex offender registry system.*
- (c) The staff of any treatment facility shall:*
- (1) Within three days of an offender's arrival for inpatient treatment, inform the registering law enforcement agency of the county or location of jurisdiction in which the treatment facility is located of the offender's presence at the treatment facility and the expected duration of the treatment, and immediately notify the registering law enforcement agency of an unauthorized or unexpected absence of the offender during the offender's treatment;*
- (2) provide information upon request to any registering law enforcement agency having jurisdiction relevant to determining the presence of an offender within the treatment facility; and*
- (3) prior to any offender receiving court ordered treatment being discharged or otherwise released:*
- (A) Inform the offender of the procedure for registration and the offender's registration requirements, as provided in K.S.A. 22-4905, and amendments thereto;*
- (B) obtain the information required for registration as provided in K.S.A. 22-4907, and amendments thereto; and*
- (C) require the offender to read and sign the registration form which shall include a statement that the requirements provided in this subsection have been explained to the offender.*
- (d) The registering law enforcement agency, upon the reporting of any offender, shall:*
- (1) Inform the offender of the duty to register as provided by the Kansas offender registration act;*
- (2)(A) Explain the procedure for registration and the offender's registration requirements as provided in K.S.A. 22-4905, and amendments thereto;*
- (B) obtain the information required for registration as provided in K.S.A. 22-4907, and amendments thereto; and*
- (C) require the offender to read and sign the registration form, which shall include a statement that the requirements provided in this subsection have been explained to the offender;*
- (3) complete the registration form with all information and updated information required for registration, as provided in K.S.A. 22-4907, and amendments thereto, each time the offender reports to the registering law enforcement agency. All additions or changes in the information reported by an offender shall be forwarded to the Kansas bureau of investigation within three business days;*
- (4) maintain the original signed registration form, provide one copy of the completed registration form to the offender and, within three business days, send one copy of the completed form to the Kansas bureau of investigation;*
- (5) obtain registration information from every offender required to register regardless of whether or not the offender remits payment. Failure of the offender to remit payment is a violation of the Kansas offender registration act and is subject to prosecution pursuant to K.S.A. 22-4903, and amendments thereto;*
- (6) upon every required reporting, update the photograph or photographs of the offender's face and any new identifying marks and immediately forward copies or electronic files of the photographs to the Kansas bureau of investigation;*
- (7) enter all offender information required by the national crime information center into the national sex offender registry system within three days of completing the registration;*
- (8) maintain a special fund for the deposit and maintenance of fees paid by offenders. All funds retained by the registering law enforcement agency pursuant to the provisions of this section shall be credited to a special fund of the registering law enforcement agency which shall be used solely for law enforcement and criminal prosecution purposes and which shall not be used as a source of revenue to reduce the amount of funding otherwise made available to the registering law enforcement agency; and*

(9) forward any initial registration and updated registration information within three days to any out of state jurisdiction where the offender is expected to reside, maintain employment or attend school.

(e)(1) The Kansas bureau of investigation shall:

(A) Forward all additions or changes in information to any registering law enforcement agency, other than the agency that submitted the form, where the offender expects to reside, maintain employment or attend school;

(B) ensure that offender information is immediately entered in the state registered offender database and the Kansas registered offender website, as provided in K.S.A. 22-4909, and amendments thereto; and

(C) transmit offender conviction or adjudication data and fingerprints to the federal bureau of investigation.

(2) The director of the Kansas bureau of investigation may adopt rules and regulations necessary to implement the provisions of the Kansas offender registration act.

(f) The attorney general shall, within 10 business days of an offender being declared a sexually violent predator, forward to the Kansas bureau of investigation all relevant court documentation declaring an offender a sexually violent predator.

(g) The state department of education shall annually notify any school of the Kansas bureau of investigation internet website, and any internet website containing information on the Kansas offender registration act sponsored or created by the registering law enforcement agency of the county or location of jurisdiction in which the school is located, for the purpose of locating offenders who reside near such school. Such notification shall include information that the registering law enforcement agency of the county or location of jurisdiction where such school is located is available to the school to assist in using the registry and providing additional information on registered offenders.

(h) The secretary of health and environment shall annually notify any licensed child care facility of the Kansas bureau of investigation internet website, and any internet website containing information on the Kansas offender registration sponsored or created by the registering law enforcement agency of the county in which the facility is located, for the purpose of locating offenders who reside near such facility. Such notification shall include information that the registering law enforcement agency of the county or location of jurisdiction where such child care facility is located is available to the child care facilities to assist in using the registry and providing additional information on registered offenders.

(i) Upon request, the clerk of any court of record shall provide the Kansas bureau of investigation copies of complaints, indictments, information, journal entries, commitment orders or any other documents necessary to the performance of the duties of the Kansas bureau of investigation under the Kansas offender registration act. No fees or charges for providing such documents may be assessed.

Note: The 2011 amendment deleted and rewrote this entire section.

Chapter 38 thru 60

38-2202 Definitions—Care of children

Amended 2011

As used in the revised Kansas code for care of children, unless the context otherwise indicates:

- (a) “Abandon” or “abandonment” means to forsake, desert or, without making appropriate provision for substitute care, cease providing care for the child.
- (b) “Adult correction facility” means any public or private facility, secure or nonsecure, which is used for the lawful custody of accused or convicted adult criminal offenders.
- (c) “Aggravated circumstances” means the abandonment, torture, chronic abuse, sexual abuse or chronic, life threatening neglect of a child.
- (d) “Child in need of care” means a person less than 18 years of age at the time of filing of the petition or issuance of an ex parte protective custody order pursuant to K.S.A. 38-2242, and amendments thereto, who:
 - (1) Is without adequate parental care, control or subsistence and the condition is not due solely to the lack of financial means of the child’s parents or other custodian;
 - (2) is without the care or control necessary for the child’s physical, mental or emotional health;
 - (3) has been physically, mentally or emotionally abused or neglected or sexually abused;
 - (4) has been placed for care or adoption in violation of law;
 - (5) has been abandoned or does not have a known living parent;
 - (6) is not attending school as required by K.S.A. 72-977 or 72-1111, and amendments thereto;
 - (7) except in the case of a violation of K.S.A. 41-727, subsection (j) of K.S.A. 74-8810, subsection (m) or (n) of K.S.A. 79-3321, **or subsection (a)(14) of K.S.A. 21-6301**, and amendments thereto, or, except as provided in paragraph (12), does an act which, when committed by a person under 18 years of age, is prohibited by state law, city ordinance or county resolution but which is not prohibited when done by an adult;
 - (8) while less than 10 years of age, commits any act which if done by an adult would constitute the commission of a felony or misdemeanor as defined by **K.S.A. 21-5102**, and amendments thereto;
 - (9) is willfully and voluntarily absent from the child’s home without the consent of the child’s parent or other custodian;
 - (10) is willfully and voluntarily absent at least a second time from a court ordered or designated placement, or a placement pursuant to court order, if the absence is without the consent of the person with whom the child is placed or, if the child is placed in a facility, without the consent of the person in charge of such facility or such person’s designee;
 - (11) has been residing in the same residence with a sibling or another person under 18 years of age, who has been physically, mentally or emotionally abused or neglected, or sexually abused;
 - (12) while less than 10 years of age commits the offense defined in **subsection (a)(14) of K.S.A. 21-6301**, and amendments thereto; or
 - (13) has had a permanent custodian appointed and the permanent custodian is no longer able or willing to serve.
- (e) “Citizen review board” is a group of community volunteers appointed by the court and whose duties are prescribed by K.S.A. 38-2207 and 38-2208, and amendments thereto.
- (f) “Civil custody case” includes any case filed under article 11, of chapter 38 of the Kansas Statutes Annotated, and amendments thereto (determination of parentage), article 21 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto (adoption and relinquishment act), article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto (guardians and conservators), or article 16 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto (divorce).
- (g) “Court-appointed special advocate” means a responsible adult other than an attorney guardian ad litem who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 38-2206, and amendments thereto, in a proceeding pursuant to this code.
- (h) “Custody” whether temporary, protective or legal, means the status created by court order or statute which vests in a custodian, whether an individual or an agency, the right to physical possession of the child and the right to determine placement of the child, subject to restrictions placed by the court.

- (i) "Extended out of home placement" means a child has been in the custody of the secretary and placed with neither parent for 15 of the most recent 22 months beginning 60 days after the date at which a child in the custody of the secretary was removed from the home.
- (j) "Educational institution" means all schools at the elementary and secondary levels.
- (k) "Educator" means any administrator, teacher or other professional or paraprofessional employee of an educational institution who has exposure to a pupil specified in subsection (a) of K.S.A. 72-89b03, and amendments thereto.
- (l) "Harm" means physical or psychological injury or damage.
- (m) "Interested party" means the grandparent of the child, a person with whom the child has been living for a significant period of time when the child in need of care petition is filed, and any person made an interested party by the court pursuant to K.S.A. 38-2241, and amendments thereto or Indian tribe seeking to intervene that is not a party.
- (n) "Jail" means:
- (1) An adult jail or lockup; or
 - (2) a facility in the same building or on the same grounds as an adult jail or lockup, unless the facility meets all applicable standards and licensure requirements under law and there is: (A) Total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.
- (o) "Juvenile detention facility" means any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders which must not be a jail.
- (p) "Juvenile intake and assessment worker" means a responsible adult authorized to perform intake and assessment services as part of the intake and assessment system established pursuant to K.S.A. 75-7023, and amendments thereto.
- (q) "Kinship care" means the placement of a child in the home of the child's relative or in the home of another adult with whom the child or the child's parent already has a close emotional attachment.
- (r) "Law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.
- (s) "Multidisciplinary team" means a group of persons, appointed by the court under K.S.A. 38-2228, and amendments thereto, which has knowledge of the circumstances of a child in need of care.
- (t) "Neglect" means acts or omissions by a parent, guardian or person responsible for the care of a child resulting in harm to a child, or presenting a likelihood of harm, and the acts or omissions are not due solely to the lack of financial means of the child's parents or other custodian. Neglect may include, but shall not be limited to:
- (1) Failure to provide the child with food, clothing or shelter necessary to sustain the life or health of the child;
 - (2) failure to provide adequate supervision of a child or to remove a child from a situation which requires judgment or actions beyond the child's level of maturity, physical condition or mental abilities and that results in bodily injury or a likelihood of harm to the child; or
 - (3) failure to use resources available to treat a diagnosed medical condition if such treatment will make a child substantially more comfortable, reduce pain and suffering, or correct or substantially diminish a crippling condition from worsening. A parent legitimately practicing religious beliefs who does not provide specified medical treatment for a child because of religious beliefs shall not for that reason be considered a negligent parent; however, this exception shall not preclude a court from entering an order pursuant to subsection (a)(2) of K.S.A. 38-2217, and amendments thereto.
- (u) "Parent" when used in relation to a child or children, includes a guardian and every person who is by law liable to maintain, care for or support the child.

- (v) “Party” means the state, the petitioner, the child, any parent of the child and an Indian child’s tribe intervening pursuant to the Indian child welfare act.
- (w) “Permanency goal” means the outcome of the permanency planning process which may be reintegration, adoption, appointment of a permanent custodian or another planned permanent living arrangement.
- (x) “Permanent custodian” means a judicially approved permanent guardian of a child pursuant to K.S.A. 38-2272, and amendments thereto.
- (y) “Physical, mental or emotional abuse” means the infliction of physical, mental or emotional harm or the causing of a deterioration of a child and may include, but shall not be limited to, maltreatment or exploiting a child to the extent that the child’s health or emotional well-being is endangered.
- (z) “Placement” means the designation by the individual or agency having custody of where and with whom the child will live.
- (aa) “Relative” means a person related by blood, marriage or adoption but, when referring to a relative of a child’s parent, does not include the child’s other parent.
- (bb) “Secretary” means the secretary of social and rehabilitation services or the secretary’s designee.
- (cc) “Secure facility” means a facility which is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or which relies on locked rooms and buildings, fences or physical restraint in order to control behavior of its residents. No secure facility shall be in a city or county jail.
- (dd) “Sexual abuse” means any contact or interaction with a child in which the child is being used for the sexual stimulation of the perpetrator, the child or another person. Sexual abuse shall include allowing, permitting or encouraging a child to engage in prostitution or to be photographed, filmed or depicted in pornographic material.
- (ee) “Shelter facility” means any public or private facility or home other than a juvenile detention facility that may be used in accordance with this code for the purpose of providing either temporary placement for children in need of care prior to the issuance of a dispositional order or longer term care under a dispositional order.
- (ff) “Transition plan” means, when used in relation to a youth in the custody of the secretary, an individualized strategy for the provision of medical, mental health, education, employment and housing supports as needed for the adult and, if applicable, for any minor child of the adult, to live independently and specifically provides for the supports and any services for which an adult with a disability is eligible including, but not limited to, funding for home and community based services waivers.
- (gg) “Youth residential facility” means any home, foster home or structure which provides 24-hour-a-day care for children and which is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

38-2302 Definitions–Juvenile code

Amended 2011

As used in this code, unless the context otherwise requires:

- (a) “Commissioner” means the commissioner of juvenile justice or the commissioner’s designee.
- (b) “Conditional release” means release from a term of commitment in a juvenile correctional facility for an aftercare term pursuant to K.S.A. 38-2369, and amendments thereto, under conditions established by the commissioner.
- (c) “Court-appointed special advocate” means a responsible adult, other than an attorney appointed pursuant to K.S.A. 38-2306, and amendments thereto, who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 38-2307, and amendments thereto, in a proceeding pursuant to this code.
- (d) “Educational institution” means all schools at the elementary and secondary levels.
- (e) “Educator” means any administrator, teacher or other professional or paraprofessional employee of an educational institution who has exposure to a pupil specified in subsections (a)(1) through (5) of K.S.A. 72-89b03, and amendments thereto.

- (f) “Institution” means the following institutions: The Atchison juvenile correctional facility, the Larned juvenile correctional facility and the Kansas juvenile correctional complex.
- (g) “Investigator” means an employee of the juvenile justice authority assigned by the commissioner with the responsibility for investigations concerning employees at the juvenile correctional facilities and juveniles in the custody of the commissioner at a juvenile correctional facility.
- (h) “Jail” means:
- (1) An adult jail or lockup; or
 - (2) a facility in the same building as an adult jail or lockup, unless the facility meets all applicable licensure requirements under law and there is: (A) Total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.
- (i) “Juvenile” means a person to whom one or more of the following applies, the person: (1) Is 10 or more years of age but less than 18 years of age; (2) is alleged to be a juvenile offender; or (3) has been adjudicated as a juvenile offender and continues to be subject to the jurisdiction of the court.
- (j) “Juvenile correctional facility” means a facility operated by the commissioner for the commitment of juvenile offenders.
- (k) “Juvenile corrections officer” means a certified employee of the juvenile justice authority working at a juvenile correctional facility assigned by the commissioner with responsibility for maintaining custody, security and control of juveniles in the custody of the commissioner at a juvenile correctional facility.
- (l) “Juvenile detention facility” means a public or private facility licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, which is used for the lawful custody of alleged or adjudicated juvenile offenders.
- (m) “Juvenile intake and assessment worker” means a responsible adult authorized to perform intake and assessment services as part of the intake and assessment system established pursuant to K.S.A. 75-7023, and amendments thereto.
- (n) “Juvenile offender” means a person who commits an offense while 10 or more years of age but less than 18 years of age which if committed by an adult would constitute the commission of a felony or misdemeanor as defined by **K.S.A. 21-5102**, and amendments thereto, or who violates the provisions of K.S.A. 41-727, subsection (j) of K.S.A. 74-8810 **or subsection (a)(14) of K.S.A. 21-6301**, and amendments thereto, but does not include:
- (1) A person 14 or more years of age who commits a traffic offense, as defined in subsection (d) of K.S.A. 8-2117, and amendments thereto;
 - (2) a person 16 years of age or over who commits an offense defined in chapter 32 of the Kansas Statutes Annotated, and amendments thereto;
 - (3) a person under 18 years of age who previously has been:
 - (A) Convicted as an adult under the Kansas criminal code;
 - (B) sentenced as an adult under the Kansas criminal code following termination of status as an extended jurisdiction juvenile pursuant to K.S.A. 38-2364, and amendments thereto; or
 - (C) convicted or sentenced as an adult in another state or foreign jurisdiction under substantially similar procedures described in K.S.A. 38-2347, and amendments thereto, or because of attaining the age of majority designated in that state or jurisdiction.
- (o) “Law enforcement officer” means any person who by virtue of that person’s office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.
- (p) “Parent” when used in relation to a juvenile, includes a guardian and every person who is, by law, liable to maintain, care for or support the juvenile.

- (q) “Risk assessment tool” means an instrument administered to juveniles which delivers a score, or group of scores, describing, but not limited to describing, the juvenile’s potential risk to the community.
- (r) “Sanctions house” means a facility which is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or which relies on locked rooms and buildings, fences or physical restraint in order to control the behavior of its residents. Upon an order from the court, a licensed juvenile detention facility may serve as a sanctions house.
- (s) “Warrant” means a written order by a judge of the court directed to any law enforcement officer commanding the officer to take into custody the juvenile named or described therein.
- (t) “Youth residential facility” means any home, foster home or structure which provides 24-hour-a-day care for juveniles and which is licensed pursuant to article 5 of chapter 65 or article 70 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.
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38-2330 Taking juvenile into custody

- (a) A law enforcement officer may take a juvenile into custody when:
- (1) Any offense has been or is being committed in the officer’s view;
 - (2) the officer has a warrant commanding that the juvenile be taken into custody;
 - (3) the officer has probable cause to believe that a warrant or order commanding that the juvenile be taken into custody has been issued in this state or in another jurisdiction for an act committed therein;
 - (4) the officer has probable cause to believe that the juvenile is committing or has committed an act which, if committed by an adult, would constitute:
 - (A) A felony; or
 - (B) a misdemeanor and: (i) The juvenile will not be apprehended or evidence of the offense will be irretrievably lost unless the juvenile is immediately taken into custody; or (ii) the juvenile may cause injury to self or others or damage to property or may be injured unless immediately taken into custody;
 - (5) the officer has probable cause to believe that the juvenile has violated an order for electronic monitoring as a term of probation; or
 - (6) the officer receives a written statement pursuant to subsection (c).
- (b) A court services officer, juvenile community corrections officer or other person authorized to supervise juveniles subject to this code, may take a juvenile into custody when: (1) There is a warrant commanding that the juvenile be taken into custody; (2) the officer has probable cause to believe that a warrant or order commanding that the juvenile be taken into custody has been issued in this state or in another jurisdiction for an act committed therein; or (3) there is probable cause to believe that the juvenile has violated a term of probation or placement.
- (c) Any court services officer, juvenile community corrections officer or other person authorized to supervise juveniles subject to this code, may arrest a juvenile without a warrant or may request any other officer with power of arrest to arrest a juvenile without a warrant by giving the officer a written statement setting forth that the juvenile, in the judgment of the court services officer, juvenile community corrections officer or other person authorized to supervise juveniles subject to this code, has violated the condition of the juvenile’s release. The written statement delivered with the juvenile by the arresting officer to the official in charge of a juvenile detention facility or other place of detention shall be sufficient warrant for the detention of the juvenile.
- (d)(1) A juvenile taken into custody by a law enforcement officer shall be brought without unnecessary delay to an intake and assessment worker if an intake and assessment program exists in the jurisdiction, or before the court for proceedings in accordance with this code or, if the court is not open for the regular conduct of business, to a court services officer, a juvenile intake and assessment worker, a juvenile detention facility or youth residential facility which the court or the commissioner shall have designated. The officer shall not take the juvenile to a juvenile detention facility unless the juvenile meets one or more of the criteria listed in subsection (b) of K.S.A. 38-2331, and amendments thereto. If the juvenile meets one or more of such criteria, the officer shall first consider whether taking the juvenile to an available nonsecure facility is more appropriate.

- (2) It shall be the duty of the officer to furnish the county or district attorney and the juvenile intake and assessment worker if the officer has delivered the juvenile to the worker, with all of the information in the officer's possession pertaining to the juvenile, the juvenile's parent or other persons interested in or likely to be interested in the juvenile and all other facts and circumstances which caused the juvenile to be arrested or taken into custody.
- (e) In the absence of a court order to the contrary, the court or officials designated by the court, the county or district attorney or the law enforcement agency taking a juvenile into custody shall have the authority to direct the release prior to the time specified by subsection (a) of K.S.A. 38-2343, and amendments thereto. In addition, if an agreement is established pursuant to K.S.A. 38-2346, and amendments thereto, a juvenile intake and assessment worker shall have the authority to direct the release of a juvenile prior to a detention hearing after the completion of the intake and assessment process if the juvenile intake and assessment worker has reason to believe that if released the juvenile will appear for further proceedings and will not be dangerous to self or others.
- (f) Whenever a person 18 years of age or more is taken into custody by a law enforcement officer for an alleged offense which was committed prior to the time the person reached the age of 18, the officer shall notify and refer the matter to the court for proceedings pursuant to this code, except that the provisions of this code relating to detention hearings shall not apply to that person. If detention is necessary, the person shall be detained in jail. Unless the law enforcement officer took the person into custody pursuant to a warrant issued by the court and the warrant specifies the amount of bond or indicates that the person may be released on personal recognizance, the person shall be taken before the court of the county where the alleged act took place or, at the request of the person, the person shall be taken, without delay, before the nearest court. The court shall fix the terms and conditions of an appearance bond upon which the person may be released from custody. The provisions of article 28 of chapter 22 of the Kansas Statutes Annotated and K.S.A. 22-2901, and amendments thereto, relating to appearance bonds and review of conditions and release shall be applicable to appearance bonds provided for in this section.

**40-3104 Motor vehicle liability insurance coverage required; prohibited vehicle operation
(STO §200)**

- (a) Every owner shall provide motor vehicle liability insurance coverage in accordance with the provisions of this act for every motor vehicle owned by such person, unless such motor vehicle: (1) Is included under an approved self-insurance plan as provided in subsection (f); (2) is used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and amendments thereto, in an approved driver training course by a school district or an accredited nonpublic school under an agreement with a motor vehicle dealer, and such motor vehicle liability insurance coverage is provided by the school district or accredited nonpublic school; (3) is included under a qualified plan of self-insurance approved by an agency of the state in which such motor vehicle is registered and the form prescribed in subsection (b) of K.S.A. 40-3106, and amendments thereto, has been filed; or (4) is expressly exempted from the provisions of this act.
- (b) An owner of an uninsured motor vehicle shall not permit the operation thereof upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of this act.
- (c) No person shall knowingly drive an uninsured motor vehicle upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of this act.
- (d) Any person operating a motor vehicle upon a highway or upon property open to use by the public shall display, upon demand, evidence of financial security to a law enforcement officer. The law enforcement officer shall issue a citation to any person who fails to display evidence of financial security upon such demand. The law enforcement officer shall transmit a copy of the insurance verification form prescribed by the secretary of revenue with the copy of the citation transmitted to the court.
- No citation shall be issued to any person for failure to provide proof of financial security when evidence of financial security meeting the standards of subsection (e) is displayed upon demand of a law enforcement officer. Whenever the authenticity of such evidence is questionable, the law enforcement officer may initiate the preparation of the insurance verification form prescribed by the secretary of revenue by recording infor-

mation from the evidence of financial security displayed. The officer shall immediately forward the form to the department of revenue, and the department shall proceed with verification in the manner prescribed in the following paragraph. Upon return of a form indicating that insurance was not in force on the date indicated on the form, the department shall immediately forward a copy of the form to the law enforcement officer initiating preparation of the form.

(e) Unless the insurance company subsequently submits an insurance verification form indicating that insurance was not in force, no person charged with violating subsection (b), (c) or (d) shall be convicted if such person produces in court, within 10 days of the date of arrest or of issuance of the citation, evidence of financial security for the motor vehicle operated, which was valid at the time of arrest or of issuance of the citation. For the purpose of this subsection, evidence of financial security shall be provided by a policy of motor vehicle liability insurance, an identification card or certificate of insurance issued to the policyholder by the insurer which provides the name of the insurer, the policy number, make and year of the vehicle and the effective and expiration dates of the policy, or a certificate of self-insurance signed by the commissioner of insurance. Upon the production in court of evidence of financial security, the court shall record the information displayed thereon on the insurance verification form prescribed by the secretary of revenue, immediately forward such form to the department of revenue, and stay any further proceedings on the matter pending a request from the prosecuting attorney that the matter be set for trial. Upon receipt of such form the department shall mail the form to the named insurance company for verification that insurance was in force on the date indicated on the form. It shall be the duty of insurance companies to notify the department within 30 calendar days of the receipt of such forms of any insurance that was not in force on the date specified. Upon return of any form to the department indicating that insurance was not in force on such date, the department shall immediately forward a copy of such form to the office of the prosecuting attorney or the city clerk of the municipality in which such prosecution is pending when the prosecuting attorney is not ascertainable. Receipt of any completed form indicating that insurance was not in effect on the date specified shall be prima facie evidence of failure to provide proof of financial security and violation of this section. A request that the matter be set for trial shall be made immediately following the receipt by the prosecuting attorney of a copy of the form from the department of revenue indicating that insurance was not in force. Any charge of violating subsection (b), (c) or (d) shall be dismissed if no request for a trial setting has been made within 60 days of the date evidence of financial security was produced in court.

(f) Any person in whose name more than 25 motor vehicles are registered in Kansas may qualify as a self-insurer by obtaining a certificate of self-insurance from the commissioner of insurance. The certificate of self-insurance issued by the commissioner shall cover such owned vehicles and those vehicles, registered in Kansas, leased to such person if the lease agreement requires that motor vehicle liability insurance on the vehicles be provided by the lessee. Upon application of any such person, the commissioner of insurance may issue a certificate of self-insurance, if the commissioner is satisfied that such person is possessed and will continue to be possessed of ability to pay any liability imposed by law against such person arising out of the ownership, operation, maintenance or use of any motor vehicle described in this subsection. A self-insurer shall provide liability coverage subject to the provisions of subsection (e) of K.S.A. 40-3107, and amendments thereto, arising out of the ownership, operation, maintenance or use of a self-insured motor vehicle in those instances where the lessee or the rental driver, if not the lessee, does not have a motor vehicle liability insurance policy or insurance coverage pursuant to a motor vehicle liability insurance policy or certificate of insurance or such insurance policy for such leased or rented vehicle. Such liability coverage shall be provided to any person operating a self-insured motor vehicle with the expressed or implied consent of the self-insurer.

Upon notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, the commissioner of insurance may cancel a certificate of self-insurance upon reasonable grounds. Failure to provide liability coverage or personal injury protection benefits required by K.S.A. 40-3107 and 40-3109, and amendments thereto, or pay any liability imposed by law arising out of the ownership, operation, maintenance or use of a motor vehicle registered in such self-insurer's name, or to otherwise comply with the requirements of this subsection shall constitute reasonable grounds for the cancellation of a certificate of

self-insurance. Reasonable grounds shall not exist unless such objectionable activity occurs with such frequency as to indicate a general business practice.

Self-insureds shall investigate claims in a reasonably prompt manner, handle such claims in a reasonable manner based on available information and effectuate prompt, fair and equitable settlement of claims in which liability has become reasonably clear.

As used in this subsection, "liability imposed by law" means the stated limits of liability as provided under subsection (e) of K.S.A. 40-3107, and amendments thereto.

Nothing in this subsection shall preclude a self-insurer from pursuing all rights of subrogation against another person or persons.

- (g)(1) Any person violating any provision of this section shall be guilty of a class B misdemeanor and shall be subject to a fine of not less than \$300 nor more than \$1,000 or confinement in the county jail for a term of not more than six months, or both such fine and confinement.
- (2) Any person convicted of violating any provision of this section within three years of any such prior conviction shall be guilty of a class A misdemeanor and shall be subject to a fine of not less than \$800 nor more than \$2,500.
- (h) In addition to any other penalties provided by this act for failure to have or maintain financial security in effect, the director, upon receipt of a report required by K.S.A. 8-1607 or 8-1611, and amendments thereto, or a denial of such insurance by the insurance company listed on the form prescribed by the secretary of revenue pursuant to subsection (d) of this section, shall, upon notice and hearing as provided by K.S.A. 40-3118, and amendments thereto:
- (1) Suspend:
 - (A) The license of each driver in any manner involved in the accident;
 - (B) the license of the owner of each motor vehicle involved in such accident, unless the vehicle was stolen at the time of the accident, proof of which must be established by the owner of the motor vehicle. Theft by a member of the vehicle owner's immediate family under the age of 18 years shall not constitute a stolen vehicle for the purposes of this section;
 - (C) if the driver is a nonresident, the privilege of operating a motor vehicle within this state; or
 - (D) if such owner is a nonresident, the privilege of such owner to operate or permit the operation within this state of any motor vehicle owned by such owner; and
 - (2) revoke the registration of all vehicles owned by the owner of each motor vehicle involved in such accident.
- (i) The suspension or revocation requirements in subsection (h) shall not apply:
- (1) To the driver or owner if the owner had in effect at the time of the accident an automobile liability policy as required by K.S.A. 40-3107, and amendments thereto, with respect to the vehicle involved in the accident;
 - (2) to the driver, if not the owner of the vehicle involved in the accident, if there was in effect at the time of the accident an automobile liability policy with respect to such driver's driving of vehicles not owned by such driver;
 - (3) to any self-insurer as defined by subsection (u) of K.S.A. 40-3103, and amendments thereto;
 - (4) to the driver or owner of any vehicle involved in the accident which was exempt from the provisions of this act pursuant to K.S.A. 40-3105, and amendments thereto;
 - (5) to the owner of a vehicle described in subsection (a)(2).
- (j)(1) For the purposes of provisions (1) and (2) of subsection (i) of this section, the director may require verification by an owner's or driver's insurance company or agent thereof that there was in effect at the time of the accident an automobile liability policy as required in this act.
- (2) Subject to the provisions of subsection (k), any suspension or revocation effected hereunder shall remain in effect until such person:
- (A) Has filed satisfactory proof of financial security with the director as required by subsection (d) of K.S.A. 40-3118 and amendments thereto;
 - (B) has paid the reinstatement fee herein prescribed; and

- (C)(i) has been released from liability;
 - (ii) is a party to an action to determine liability pursuant to which the court temporarily stays such suspension pending final disposition of such action;
 - (iii) has entered into an agreement for the payment of damages; or
 - (iv) has been finally adjudicated not to be liable in respect to such accident and evidence of any such fact has been filed with the director.
- (3) The reinstatement fee shall be \$100 except that if the registration of a motor vehicle of any owner is revoked within one year following a prior revocation of the registration of a motor vehicle of such owner under the provisions of this act such fee shall be \$300.
- (k)(1) Whenever any person whose license has been suspended or revoked pursuant to this section is involved in an accident and has entered into an agreement with any driver, or such 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 such agreement, the driver or the driver's insurer, as appropriate, shall notify the director within 60 days of the date of default.
- (2) Upon receipt of the notice of default, the director shall immediately suspend such person's license and registration. If such person is a nonresident, the director shall immediately suspend such nonresident's privilege to operate a motor vehicle in this state.
- (3) Except as provided in paragraph (4), such person's driver's license, registration and nonresident's operating privilege shall remain so suspended and shall not be renewed, nor shall any such license or registration be thereafter issued in the name of such person, including any such person not previously licensed, unless and until:
- (A) The director receives notice payments under the agreement referred to in paragraph (1) have been resumed and that payments under such agreement are no longer in default;
 - (B) such person has filed satisfactory proof of financial responsibility with the director as required by subsection (d) of K.S.A. 40-3118 and amendments thereto; and
 - (C) the reinstatement fee required by subsection (j) has been paid.
- (4) Upon due notice to the director that the conditions of paragraph (3) have been fulfilled, such person may obtain from the director an order restoring such person's driver's license, registration and nonresident's operating privilege to operate a motor vehicle in this state conditioned upon such person's continued compliance with the agreement referred to in paragraph (1).
- (5) In the event such person fails to make any further payment under the agreement referred to in paragraph (1) when such payment is due, the director, upon receipt of notice of such default, shall immediately suspend the license, registration or nonresident's operating privilege of such person until all payments have been made under the agreement referred to in paragraph (1). No suspension of such person's license, registration or nonresident's privilege to operate a motor vehicle in this state shall be reinstated pursuant to paragraph (4).
- (l) The provisions of this section shall not apply to motor carriers of property or passengers regulated by the corporation commission of the state of Kansas.
- (m) The provisions of subsection (d) shall not apply to vehicle dealers, as defined in K.S.A. 8-2401, and amendments thereto, for vehicles being offered for sale by such dealers.

41-719 Consumption of alcoholic liquor prohibited in certain places

- (a)(1) Except as otherwise provided herein and in K.S.A. 8-1599, and amendments thereto, no person shall drink or consume alcoholic liquor on the public streets, alleys, roads or highways or inside vehicles while on the public streets, alleys, roads or highways.
- (2) Alcoholic liquor may be consumed at a special event held on public streets, alleys, roads, sidewalks or highways when a temporary permit has been issued pursuant to K.S.A. 41-2645, and amendments thereto, for such special event. Such special event must be approved, by ordinance or resolution, by the local governing body of any city, county or township where such special event is being held. No alcoholic liquor may be consumed inside vehicles while on public streets, alleys, roads or highways at any such special event.

- (3) No person shall remove any alcoholic liquor from inside the boundaries of a special event as designated by the governing body of any city, county or township. The boundaries of such special event shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed at such special event.
- (4) No person shall possess or consume alcoholic liquor inside the premises licensed as a special event that was not sold or provided by the licensee holding the temporary permit for such special event.
- (b) No person shall drink or consume alcoholic liquor on private property except:
 - (1) On premises where the sale of liquor by the individual drink is authorized by the club and drinking establishment act;
 - (2) upon private property by a person occupying such property as an owner or lessee of an owner and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;
 - (3) in a lodging room of any hotel, motel or boarding house by the person occupying such room and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;
 - (4) in a private dining room of a hotel, motel or restaurant, if the dining room is rented or made available on a special occasion to an individual or organization for a private party and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place; or
 - (5) on the premises of a microbrewery or farm winery, if authorized by K.S.A. 41-308a or 41-308b, and amendments thereto.
- (c) No person shall drink or consume alcoholic liquor on public property except:
 - (1) On real property leased by a city to others under the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real property is actually being used for hotel or motel purposes or purposes incidental thereto.
 - (2) In any state-owned or operated building or structure, and on the surrounding premises, which is furnished to and occupied by any state officer or employee as a residence.
 - (3) On premises licensed as a club or drinking establishment and located on property owned or operated by an airport authority created pursuant to chapter 27 of the Kansas Statutes Annotated, and amendments thereto, or established by a city.
 - (4) On the state fair grounds on the day of any race held thereon pursuant to the Kansas parimutuel racing act.
 - (5) On the state fairgrounds, if:
 - (A) The alcoholic liquor is domestic beer or wine or wine imported under subsection (e) of K.S.A. 41-308a, and amendments thereto, and is consumed only for purposes of judging competitions;
 - (B) the alcoholic liquor is wine or beer and is sold and consumed during the days of the Kansas state fair on premises leased by the state fair board to a person who holds a temporary permit issued pursuant to K.S.A. 41-2645, and amendments thereto, authorizing the sale and serving of such wine or beer, or both; or
 - (C) the alcoholic liquor is consumed on nonfair days in conjunction with bona fide scheduled events involving not less than 75 invited guests and the state fair board, in its discretion, authorizes the consumption of the alcoholic liquor, subject to any conditions or restrictions the board may require.
 - (6) In the state historical museum provided for by K.S.A. 76-2036, and amendments thereto, on the surrounding premises and in any other building on such premises, as authorized by rules and regulations of the state historical society.
 - (7) On the premises of any state-owned historic site under the jurisdiction and supervision of the state historical society, on the surrounding premises and in any other building on such premises, as authorized by rules and regulations of the state historical society.
 - (8) In a lake resort within the meaning of K.S.A. 32-867, and amendments thereto, on state-owned or leased property.

- (9) In the Hiram Price Dillon house or on its surrounding premises, subject to limitations established in policies adopted by the legislative coordinating council, as provided by K.S.A. 75-3682, and amendments thereto.
- (10) On the premises of any Kansas national guard regional training center or armory, and any building on such premises, as authorized by rules and regulations of the adjutant general and upon approval of the Kansas military board.
- (11) On property exempted from this subsection (c) pursuant to subsection (d), (e), (f), (g) or (h).
- (d) Any city may exempt, by ordinance, from the provisions of subsection (c) specified property the title of which is vested in such city.
- (e) The board of county commissioners of any county may exempt, by resolution, from the provisions of subsection (c) specified property the title of which is vested in such county.
- (f) The state board of regents may exempt from the provisions of subsection (c) the Sternberg museum on the campus of Fort Hays state university, or other specified property which is under the control of such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.
- (g) The board of regents of Washburn university may exempt from the provisions of subsection (c) the Mulvane art center and the Bradbury Thompson alumni center on the campus of Washburn university, and other specified property the title of which is vested in such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.
- (h) The board of trustees of a community college may exempt from the provisions of subsection (c) specified property which is under the control of such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.
- (i) Violation of any provision of this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$200 or by imprisonment for not more than six months, or both.
- (j) For the purposes of this section, "special event" means a picnic, bazaar, festival or other similar community gathering, which has been approved by the local governing body of any city, county or township.
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41-727 Possession of alcohol by minor
(UPOC §5.8)

- (a) Except with regard to serving of alcoholic liquor or cereal malt beverage as permitted by K.S.A. 41-308a, 41-308b, 41-727a, 41-2610, 41-2652, 41-2704 and 41-2727, and amendments thereto, and subject to any rules and regulations adopted pursuant to such statutes, no person under 21 years of age shall possess, consume, obtain, purchase or attempt to obtain or purchase alcoholic liquor or cereal malt beverage except as authorized by law.
- (b) Violation of this section by a person 18 or more years of age but less than 21 years of age is a class C misdemeanor for which the minimum fine is \$200.
- (c) Any person less than 18 years of age who violates this section is a juvenile offender under the revised Kansas juvenile justice code. Upon adjudication thereof and as a condition of disposition, the court shall require the offender to pay a fine of not less than \$200 nor more than \$500.
- (d) In addition to any other penalty provided for a violation of this section:
- (1) The court may order the offender to do either or both of the following:
 - (A) Perform 40 hours of public service; or
 - (B) attend and satisfactorily complete a suitable educational or training program dealing with the effects of alcohol or other chemical substances when ingested by humans.
 - (2) Upon a first conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for 30 days. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for 30 days whether or not that person has a driver's license.
 - (3) Upon a second conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for 90 days. Upon receipt of the court order, the division

shall notify the violator and suspend the driving privileges of the violator for 90 days whether or not that person has a driver's license.

(4) Upon a third or subsequent conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for one year. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for one year whether or not that person has a driver's license.

(e) This section shall not apply to the possession and consumption of cereal malt beverage by a person under the legal age for consumption of cereal malt beverage when such possession and consumption is permitted and supervised, and such beverage is furnished, by the person's parent or legal guardian.

(f) Any city ordinance or county resolution prohibiting the acts prohibited by this section shall provide a minimum penalty which is not less than the minimum penalty prescribed by this section.

(g) A law enforcement officer may request a person under 21 years of age to submit to a preliminary screening test of the person's breath to determine if alcohol has been consumed by such person if the officer has reasonable grounds to believe that the person has alcohol in the person's body except that, if the officer has reasonable grounds to believe the person has been operating or attempting to operate a vehicle under the influence of alcohol, the provisions of K.S.A. 8-1012, and amendments thereto, shall apply. No waiting period shall apply to the use of a preliminary breath test under this subsection. If the person submits to the test, the results shall be used for the purpose of assisting law enforcement officers in determining whether an arrest should be made for violation of this section. A law enforcement officer may arrest a person based in whole or in part upon the results of a preliminary screening test. Such results or a refusal to submit to a preliminary breath test shall be admissible in court in any criminal action, but are not per se proof that the person has violated this section. The person may present to the court evidence to establish the positive preliminary screening test was not the result of a violation of this section.

(h)(1) Any person less than 18 years of age who violates only this section shall not be detained or placed in a jail, as defined in K.S.A. 38-2302, and amendments thereto.

(2) Any person less than 18 years of age who is arrested only for a violation of this section shall not be detained or placed in a juvenile detention facility, as defined in K.S.A. 38-2302, and amendments thereto, for a period exceeding 24 hours, excluding Saturdays, Sundays and legal holidays.

(3) Any person less than 18 years of age at the time of the offense who is adjudicated only of a violation of this section shall not be detained in a jail, juvenile detention facility, juvenile correctional facility or sanctions house, as defined in K.S.A. 38-2302, and amendments thereto.

(i) This section shall be part of and supplemental to the Kansas liquor control act.

41-2615 Possession or consumption by minor

(a) No licensee or permit holder, or any owner, officer or employee thereof, shall knowingly or unknowingly permit the possession or consumption of alcoholic liquor or cereal malt beverage by a minor on premises where alcoholic beverages are sold by such licensee or permit holder, except that a licensee's or permit holder's employee who is not less than 18 years of age may serve alcoholic liquor or cereal malt beverage under the on-premises supervision of the licensee or permit holder, or an employee who is 21 years of age or older.

(b) Violation of this section is a misdemeanor punishable by a fine of not less than \$100 and not more than \$250 or imprisonment not exceeding 30 days, or both.

(c) It shall be a defense to a prosecution under this section if: (1) The defendant permitted the minor to possess or consume the alcoholic liquor or cereal malt beverage with reasonable cause to believe that the minor was 21 or more years of age; and (2) to possess or consume the alcoholic liquor or cereal malt beverage, the minor exhibited to the defendant a driver's license, Kansas nondriver's identification card or other official or apparently official document that reasonably appears to contain a photograph of the minor and purporting to establish that such minor was 21 or more years of age.

47-1827 Animal facility offenses

- (a) No person shall, without the effective consent of the owner and with the intent to damage the enterprise conducted at the animal facility, damage or destroy an animal facility or any animal or property in or on an animal facility.
- (b) No person shall, without the effective consent of the owner, acquire or otherwise exercise control over an animal facility, an animal from an animal facility or other property from an animal facility, with the intent to deprive the owner of such facility, animal or property and to damage the enterprise conducted at the animal facility.
- (c) No person shall, without the effective consent of the owner and with the intent to damage the enterprise conducted at the animal facility:
- (1) Enter an animal facility, not then open to the public, with intent to commit an act prohibited by this section;
 - (2) remain concealed, with intent to commit an act prohibited by this section, in an animal facility;
 - (3) enter an animal facility and commit or attempt to commit an act prohibited by this section; or
 - (4) enter an animal facility to take pictures by photograph, video camera or by any other means.
- (d)(1) No person shall, without the effective consent of the owner and with the intent to damage the enterprise conducted at the animal facility, enter or remain on an animal facility if the person:
- (A) Had notice that the entry was forbidden; or
 - (B) received notice to depart but failed to do so.
- (2) For purposes of this subsection (d), “notice” means:
- (A) Oral or written communication by the owner or someone with apparent authority to act for the owner;
 - (B) fencing or other enclosure obviously designed to exclude intruders or to contain animals; or
 - (C) a sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden.
- (e) No person shall, without the effective consent of the owner and with the intent to damage or destroy the field crop product, damage or destroy any field crop product that is grown in the context of a product development program in conjunction or coordination with a private research facility or a university or any federal, state or local governmental agency.
- (f) No person shall, without the effective consent of the owner and with the intent to damage or destroy the field crop product, enter any property, with the intent to damage or destroy any field crop product that is grown in the context of a product development program in conjunction or coordination with a private research facility or a university or any federal, state or local governmental agency.
- (g)(1) Violation of subsection (a) or (e) is a severity level 7, nonperson felony if the facility, animals, field crop product or property is damaged or destroyed to the extent of \$25,000 or more. Violation of subsection (a) or (e) is a severity level 9, nonperson felony if the facility, animals, field crop product or property is damaged or destroyed to the extent of at least \$1,000 but less than \$25,000. Violation of subsection (a) or (e) is a class A nonperson misdemeanor if the facility, animals, field crop product or property damaged or destroyed is of the value of less than \$1,000 or is of the value of \$1,000 or more and is damaged to the extent of less than \$1,000.
- (2) Violation of subsection (b) is a severity level 10, nonperson felony.
 - (3) Violation of subsection (c) is a class A, nonperson misdemeanor.
 - (4) Violation of subsection (d) or (f) is a class B nonperson misdemeanor.
- (h) The provisions of this section shall not apply to lawful activities of any governmental agency or employees or agents thereof carrying out their duties under law.

50-6,109 Scrap metal dealers—Definitions

Amended 2011

As used in *K.S.A. 50-6,112a through 50-6,112c, and amendments thereto*, and *K.S.A. 50-6,109 through 50-6,112, and amendments thereto*:

- (a) “Scrap metal dealer” means any person that operates a business out of a fixed location, and that is also either:

- (1) Engaged in the business of buying and dealing in regulated scrap metal;
 - (2) purchasing, gathering, collecting, soliciting or procuring regulated scrap metal; or
 - (3) operating, carrying on, conducting or maintaining a regulated scrap metal yard or place where regulated scrap metal is gathered together and stored or kept for shipment, sale or transfer.
- (b) “Regulated scrap metal yard” means any yard, plot, space, enclosure, building or any other place where regulated scrap metal is collected, gathered together and stored or kept for shipment, sale or transfer.
- (c) “Regulated scrap metal” shall mean wire, cable, bars, ingots, wire scraps, pieces, pellets, clamps, aircraft parts, junk vehicles, vehicle parts, pipes or connectors made from aluminum; catalytic converters containing platinum, palladium or rhodium; and copper, titanium, tungsten, stainless steel and nickel in any form; for which the purchase price described in K.S.A. 50- 6,110 and 50-6,111, and amendments thereto, was primarily based on the content therein of aluminum, copper, titanium, tungsten, nickel, platinum, palladium, stainless steel or rhodium; any item composed in whole or in part of any nonferrous metal other than an item composed of tin, that is purchased or otherwise acquired for the purpose of recycling or storage for later recycling. Aluminum shall not include food or beverage containers.
- (d) “Bales of regulated metal” means regulated scrap metal property processed with professional recycling equipment by compression, shearing or shredding, to a form in which it may be sold by a scrap metal dealer consistent with industry standards.
- (e) “Ferrous metal” means a metal that contains iron or steel.
- (f) “Junk vehicle” means a vehicle not requiring a title as provided in chapter 8 of the Kansas Statutes Annotated, and amendments thereto, aircraft, boat, farming implement, industrial equipment, trailer or any other conveyance used on the highways and roadways, which has no use or resale value except as scrap.
- (g) “Nonferrous metal” means a metal that does not contain iron or steel, including but not limited to, copper, brass, aluminum, bronze, lead, zinc, nickel and their alloys.
- (h) “Tin” means a metal consisting predominantly of light sheet metal ferrous scrap, including large and small household appliances, construction siding and construction roofing.
- (i) “Vehicle part” means the front clip consisting of the two front fenders, hood, grill and front bumper of an automobile assembled as one unit; or the rear clip consisting of those body parts behind the rear edge of the back doors, including both rear quarter panels, the rear window, trunk lid, trunk floor panel and rear bumper, assembled as one unit; or any other vehicle part.

50-6,110 Unlawful acts—[Selling scrap metal]

(UPOC §6.24)

Amended 2011

- (a) Except as provided in subsection (d), it shall be unlawful for any person to sell any item or items of regulated scrap metal to a scrap metal dealer, or employee or agent of a dealer, in this state unless such person presents to such scrap metal dealer, or employee or agent of such dealer, at or before the time of sale, the following information: The seller’s name, address, sex, date of birth and the identifying number from the seller’s driver’s license, military identification card, passport or personal identification license. The identifying number from an official governmental document for a country other than the United States may be used to meet this requirement provided that a legible fingerprint is also obtained from the seller.
- (b) Every scrap metal dealer shall keep a register in which the dealer, or employee or agent of the dealer, shall at the time of purchase or receipt of any item for which such information is required to be presented, cross-reference to previously received information, or accurately and legibly record at the time of sale the following information:
- (1) The time, date and place of transaction;
 - (2) the seller’s name, address, sex, date of birth and the identifying number from the seller’s driver’s license, military identification card, passport or personal identification license; the identifying number from an official governmental document for a country other than the United States may be used to meet this requirement provided that a legible fingerprint is also obtained from the seller;
 - (3) a copy of the identification card or document containing such identifying number;

- (4) the license number, color and style or make of any motor vehicle in which the junk vehicle or other regulated scrap metal property is delivered in a purchase transaction;
 - (5) a general description, made in accordance with the custom of the trade, of the predominant types of junk vehicle or other regulated scrap metal property purchased in the transaction;
 - (6) the weight, quantity or volume, made in accordance with the custom of the trade, of the regulated scrap metal property purchased;
 - (7) if a junk vehicle or vehicle part is being bought or sold, a description of the junk vehicle or vehicle part, including the make, model, color, vehicle identification number and serial number if applicable;
 - (8) the amount of consideration given in a purchase transaction for the junk vehicle or other regulated scrap metal property; and
 - (9) the name of the individual acting on behalf of the regulated scrap metal dealer in making the purchase.
- (c) The scrap metal dealer's register, including copies of identification cards, may be kept in electronic format.
- (d) Notwithstanding the foregoing, this section shall not apply to:
- (1) Transactions involving regulated scrap metal, except for catalytic converters, for which the total sale price for all regulated scrap metal is \$50.00 or less;
 - (2) transactions involving only catalytic converters for which the total sale price is \$30.00 or less;
 - (3) transactions in which the seller is also a scrap metal dealer; or
 - (4) transactions for which the seller is known to the purchasing scrap metal dealer to be an established business that operates out of a fixed business location and that can reasonably be expected to generate regulated scrap metal.
- (e) The exceptions contained in subsections (d)(1) and (d)(2) shall not apply to any purchase from any seller of the following materials:*
- (1) Catalytic converters purchased separate from a vehicle;*
 - (2) coated or insulated wire or stripped wire or burnt wire;*
 - (3) refrigeration condensing units or air conditioning coils of any type; or*
 - (4) copper tubing, bars, plate, buss bar and sheet copper.*
- (f) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to pay for any of the items described in subsections (e)(1) through (4) by any means other than:*
- (1) A prenumbered check drawn on a regular bank account in the name of the scrap metal dealer and with such check made payable to the person documented as the seller in accordance with subsection (b);*
or
 - (2) a system for automated cash or electronic payment distribution which photographs or videotapes the payment recipient and identifies the payment with a distinct transaction in the register maintained in accordance with subsection (b).*

50-6,111 Unlawful acts; required information; records [Buying scrap metal]

(UPOC §6.25)

Amended 2011

- (a) It shall be unlawful for any such scrap metal dealer, or employee or agent of the dealer, to purchase any item or items of regulated scrap metal in a transaction for which K.S.A. 50-6,110, and amendments thereto, requires information to be presented by the seller, without demanding and receiving from the seller that information. Every scrap metal dealer shall file and maintain a record of information obtained in compliance with the requirements in K.S.A. 50-6,110, and amendments thereto. All records kept in accordance with the provisions of this act shall be open at all times to peace or law enforcement officers and shall be kept for two years. If the required information is maintained in electronic format, the scrap metal dealer shall provide a printout of the information to peace or law enforcement officers upon request.
- (b) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any item or items of regulated scrap metal in a transaction for which K.S.A. 50-6,110, and amendments thereto, requires information to be presented by the seller, without obtaining from the seller a signed statement that:
 - (1) each item is the seller's own personal property, is free of encumbrances and is not stolen; or

- (2) that the seller is acting for the owner and has permission to sell each item.
- (c) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any junk vehicle in a transaction for which K.S.A. 50-6,110, and amendments thereto, requires information to be presented by the seller, without:
- (1) inspecting the vehicle offered for sale and recording the vehicle identification number; and
 - (2) obtaining an appropriate vehicle title or bill of sale issued by a governmentally operated vehicle impound facility if the vehicle purchased has been impounded by such facility or agency.
- (d) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase or receive any regulated scrap metal from a minor unless such minor is accompanied by a parent or guardian or such minor is a licensed scrap metal dealer.
- (e) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any of the following items of regulated scrap metal property without obtaining proof that the seller is an employee, agent or person who is authorized to sell the item of regulated scrap metal property on behalf of the governmental entity, utility provider, railroad, cemetery, civic organization or scrap metal dealer:
- (1) Utility access cover;
 - (2) street light poles or fixtures;
 - (3) road or bridge guard rails;
 - (4) highway or street sign;
 - (5) water meter cover;
 - (6) traffic directional or traffic control signs;
 - (7) traffic light signals;
 - (8) any metal marked with any form of the name or initials of a governmental entity;
 - (9) property owned and marked by a telephone, cable, electric, water or other utility provider ***or any such wire or cable that has had the sheathing removed, making ownership identification impossible;***
 - (10) property owned and marked by a railroad;
 - (11) funeral markers or vases;
 - (12) historical markers;
 - (13) bales of regulated metal;
 - (14) beer kegs;
 - (15) manhole covers;
 - (16) fire hydrants or fire hydrant caps;
 - (17) junk vehicles with missing or altered vehicle identification numbers;
 - (18) real estate signs;
 - (19) bleachers or risers, in whole or in part; ***and***
 - (20) ***twisted pair copper telecommunications wiring of 25 pair or greater existing in 19, 22, 24 or 26 gauge.***
- (f) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to sell, trade, melt or crush, or in any way dispose of, alter or destroy any regulated scrap metal, junk vehicle or vehicle part upon notice from any law enforcement agency, or any of their agents or employees, that they have cause to believe an item has been stolen. A scrap metal dealer shall hold any of the items that are designated by or on behalf of the law enforcement agency for 30 days, exclusive of weekends and holidays.

50-6,112 Penalties

- (a) Except as provided in subsections (b) and (c), any person intentionally violating the provisions of K.S.A. 50-6,109 through 50-6,111, and amendments thereto, shall be guilty of a class C misdemeanor for which the minimum fine is \$200.
- (b) Any person convicted of violating the provisions of K.S.A. 50-6,109 through 50-6,111, and amendments thereto, for the second time within a two-year period shall be guilty of a class B misdemeanor for which the minimum fine is \$500.

(c) Any person convicted of violating the provisions of K.S.A. 50-6,109 through 50-6,111, and amendments thereto, for the third and subsequent times within a two-year period shall be guilty of a class A misdemeanor for which the minimum fine is \$1,000.

51-301 Unlawful use of recording device

(UPOC §6.23)

- (a) Unlawful use of a recording device is knowingly operating, in a motion picture theater, while a motion picture is being exhibited, an audiovisual recording function of a device without the consent of the owner or lessee of such theater.
- (b) Unlawful use of a recording device is a class A nonperson misdemeanor on conviction of the first offense. Unlawful use of a recording device is a severity level 9, nonperson felony on conviction of a second or subsequent conviction.
- (c) This section shall not apply to a person operating an audiovisual recording device as part of such person's lawfully authorized investigative, law enforcement, protective or intelligence gathering duties as a lawfully authorized investigative, law enforcement, protective or intelligence gathering employee or agent of the state or federal government.
- (d) As used in this section:
- (1) "Audiovisual recording function" means the capability of a device to record or transmit a motion picture or any part thereof by means of any technology now known or later developed.
 - (2) "Motion picture theater" means a movie theater, screening room or other venue when used primarily for the exhibition of a motion picture.

60-3107 Violation of orders of abuse

(UPOC §3.8)

Amended 2011

- (a) The court may approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children or grant any of the following orders:
- (1) Restraining the defendant from abusing, molesting or interfering with the privacy or rights of the plaintiff or of any minor children of the parties. Such order shall contain a statement that if such order is violated, such violation may constitute assault as *defined* in **subsection (a) of K.S.A. 21-5412**, and amendments thereto, battery as *defined* in **subsection (a) of K.S.A. 21-5413**, and amendments thereto, domestic battery as *defined* in **K.S.A. 21-5414**, and amendments thereto, and violation of a protective order as *defined* in **K.S.A. 21-5924**, and amendments thereto.
 - (2) Granting possession of the residence or household to the plaintiff to the exclusion of the defendant, and further restraining the defendant from entering or remaining upon or in such residence or household, subject to the limitation of subsection (d). Such order shall contain a statement that if such order is violated, such violation shall constitute criminal trespass as *defined* in **subsection (a)(1)(C) of K.S.A. 21-5808**, and amendments thereto, and violation of a protective order as *defined* in **K.S.A. 21-5924**, and amendments thereto. The court may grant an order, which shall expire 60 days following the date of issuance, restraining the defendant from cancelling utility service to the residence or household.
 - (3) Requiring defendant to provide suitable, alternate housing for the plaintiff and any minor children of the parties.
 - (4) Awarding temporary custody and residency and establishing temporary parenting time with regard to minor children.
 - (5) Ordering a law enforcement officer to evict the defendant from the residence or household.
 - (6) Ordering support payments by a party for the support of a party's minor child, if the party is the father or mother of the child, or the plaintiff, if the plaintiff is married to the defendant. Such support orders shall remain in effect until modified or dismissed by the court or until expiration and shall be for a fixed period of time not to exceed one year. On the motion of the plaintiff, the court may extend the effect of such order for 12 months.
 - (7) Awarding costs and attorney fees to either party.

- (8) Making provision for the possession of personal property of the parties and ordering a law enforcement officer to assist in securing possession of that property, if necessary.
- (9) Requiring any person against whom an order is issued to seek counseling to aid in the cessation of abuse.
- (10) Ordering or restraining any other acts deemed necessary to promote the safety of the plaintiff or of any minor children of the parties.
- (b) No protection from abuse order shall be entered against the plaintiff unless:
- (1) The defendant properly files a written cross or counter petition seeking such a protection order;
 - (2) the plaintiff had reasonable notice of the written cross or counter petition by personal service as provided in subsection (d) of K.S.A. 60-3104, and amendments thereto; and
 - (3) the issuing court made specific findings of abuse against both the plaintiff and the defendant and determined that both parties acted primarily as aggressors and neither party acted primarily in self-defense.
- (c) Any order entered under the protection from abuse act shall not be subject to modification on ex parte application or on motion for temporary orders in any action filed pursuant to K.S.A. 60-1601 et seq., or K.S.A. 38-1101 et seq., and amendments thereto. Orders previously issued in an action filed pursuant to K.S.A. 60-1601 et seq., or K.S.A. 38-1101 et seq., and amendments thereto, shall be subject to modification under the protection from abuse act only as to those matters subject to modification by the terms of ***K.S.A. 23-2712, 23-2715, 23-2716, 23-2802, 23-2902 through 23-2905, 23-3201 through 23-3207, 23-3218 and K.S.A. 23-3001 through 23-3006***, and amendments thereto, and on sworn testimony to support a showing of good cause. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause. If an action is filed pursuant to ***K.S.A. 23-2712, 23-2715, 23-2716, 23-2802, 23-2902 through 23-2905, 23-3201 through 23-3207, 23-3218 and K.S.A. 23-3001 through 23-3006***, or K.S.A. 38-1101 et seq., and amendments thereto, during the pendency of a proceeding filed under the protection from abuse act or while an order issued under the protection from abuse act is in effect, the court, on final hearing or on agreement of the parties, may issue final orders authorized by ***K.S.A. 23-2712, 23-2715, 23-2716, 23-2802, 23-2902 through 23-2905, 23-3201 through 23-3207, 23-3218 and K.S.A. 23-3001 through 23-3006***, and amendments thereto, that are inconsistent with orders entered under the protection from abuse act. Any inconsistent order entered pursuant to this subsection shall be specific in its terms, reference the protection from abuse order and parts thereof being modified and a copy thereof shall be filed in both actions. The court shall consider whether the actions should be consolidated in accordance with K.S.A. 60-242, and amendments thereto. Any custody or parenting time order, or order relating to the best interests of a child, issued pursuant to the revised Kansas code for care of children or the revised Kansas juvenile justice code, shall be binding and shall take precedence over any such custody or parenting order involving the same child issued under the protection from abuse act, until jurisdiction under the revised Kansas code for care of children or the revised Kansas juvenile justice code is terminated. Any inconsistent custody or parenting order issued in the revised Kansas code for care of children case or the revised Kansas juvenile justice code case shall be specific in its terms, reference any preexisting protection from abuse order and the custody being modified, and a copy of such order shall be filed in the preexisting protection from abuse case.
- (d) If the parties to an action under the protection from abuse act are not married to each other and one party owns the residence or household, the court shall not have the authority to grant possession of the residence or household under subsection (a)(2) to the exclusion of the party who owns it.
- (e) Subject to the provisions of subsections (b), (c) and (d), a protective order or approved consent agreement shall remain in effect until modified or dismissed by the court and shall be for a fixed period of time not to exceed one year, except that, on motion of the plaintiff, such period may be extended for one additional year.
- (f) The court may amend its order or agreement at any time upon motion filed by either party.
- (g) No order or agreement under the protection from abuse act shall in any manner affect title to any real property.
- (h) If a person enters or remains on premises or property violating an order issued pursuant to subsection (a)(2), such violation shall constitute criminal trespass as ***defined in subsection (a)(1)(C) of K.S.A. 21-5808***, and amendments thereto, and violation of a protective order as ***defined in K.S.A. 21-5924***, and amendments thereto. If a person abuses, molests or interferes with the privacy or rights of another violating an

order issued pursuant to subsection (a)(1), such violation may constitute assault as *defined* in *subsection (a) of K.S.A. 21-5412*, and amendments thereto, battery as *defined* in *subsection (a) of K.S.A. 21-5413*, and amendments thereto, domestic battery as *defined* in *K.S.A. 21-5414*, and amendments thereto, and violation of a protective order as *defined* in *K.S.A. 21-5924*, and amendments thereto.

Chapter 65 thru 79

65-1953 Body piercing or tattooing of minor

(UPOC §10.17)

No person shall perform body piercing, cosmetic tattooing or tattooing on or to any person under 18 years of age without the prior written and notarized consent of the parent or court appointed guardian of such person and the person giving such consent must be present during the body piercing, cosmetic tattooing or tattooing procedure. The written permission and a copy of the letters of guardianship when such permission is given by a guardian, shall be retained by the person administering such body piercing, cosmetic tattooing or tattooing for a period of five years. Violation of this section is a class A misdemeanor.

65-4101 Definitions—Controlled substance

Amended 2011

As used in this act:

- (a) “Administer” means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:
 - (1) A practitioner or pursuant to the lawful direction of a practitioner; or
 - (2) the patient or research subject at the direction and in the presence of the practitioner.
- (b) “Agent” means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser. It does not include a common carrier, public warehouseman or employee of the carrier or warehouseman.
- (c) “Board” means the state board of pharmacy.
- (d) “Bureau” means the bureau of narcotics and dangerous drugs, United States department of justice, or its successor agency.
- (e) “Controlled substance” means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments *thereto*.
- (f) “Counterfeit substance” means a controlled substance which, or the container or labeling of which, without authorization bears the trademark, trade name or other identifying mark, imprint, number or device or any likeness thereof of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance.
- (g) “Deliver” or “delivery” means the actual, constructive or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.
- (h) “Dispense” means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling or compounding necessary to prepare the substance for that delivery, or pursuant to the prescription of a mid-level practitioner.
- (i) “Dispenser” means a practitioner or pharmacist who dispenses.
- (j) “Distribute” means to deliver other than by administering or dispensing a controlled substance.
- (k) “Distributor” means a person who distributes.
- (l) “Drug” means:
 - (1) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any supplement to any of them;
 - (2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals;
 - (3) substances (other than food) intended to affect the structure or any function of the body of man or animals; and
 - (4) substances intended for use as a component of any article specified in clause (1), (2) or (3) of this subsection. It does not include devices or their components, parts or accessories.
- (m) “Immediate precursor” means a substance which the board has found to be and by rule and regulation designates as being the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

- (n) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance either directly or indirectly or by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for the individual's own lawful use or the preparation, compounding, packaging or labeling of a controlled substance:
- (1) By a practitioner or the practitioner's agent pursuant to a lawful order of a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or
 - (2) by a practitioner or by the practitioner's authorized agent under such practitioner's supervision for the purpose of or as an incident to research, teaching or chemical analysis or by a pharmacist or medical care facility as an incident to dispensing of a controlled substance.
- (o) "Marijuana" means all parts of all varieties of the plant *Cannabis* whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination.
- (p) "Narcotic drug" means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:
- (1) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate;
 - (2) any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1) but not including the isoquinoline alkaloids of opium;
 - (3) opium poppy and poppy straw;
 - (4) coca leaves and any salt, compound, derivative or preparation of coca leaves, and any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.
- (q) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under K.S.A. 65-4102, and amendments thereto, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.
- (r) "Opium poppy" means the plant of the species *Papaver somniferum* L. except its seeds.
- (s) "Person" means individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity.
- (t) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.
- (u) "Pharmacist" means an individual currently licensed by the board to practice the profession of pharmacy in this state.
- (v) "Practitioner" means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist licensed under the optometry law as a therapeutic licensee or diagnostic and therapeutic licensee, or scientific investigator or other person authorized by law to use a controlled substance in teaching or chemical analysis or to conduct research with respect to a controlled substance.
- (w) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.
- (x) "Ultimate user" means a person who lawfully possesses a controlled substance for such person's own use or for the use of a member of such person's household or for administering to an animal owned by such person or by a member of such person's household.

- (y) “Isomer” means all enantiomers and diastereomers.
- (z) “Medical care facility” shall have the meaning ascribed to that term in K.S.A. 65-425, and amendments thereto.
- (aa) “Cultivate” means the planting or promotion of growth of five or more plants which contain or can produce controlled substances.
- (bb)(1) “Controlled substance analog” means a substance that is intended for human consumption, and:
- (A) The chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in or added to the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto;
 - (B) which has a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto; or
 - (C) with respect to a particular individual, which the individual represents or intends to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto.
- (2) “Controlled substance analog” does not include:
- (A) A controlled substance;
 - (B) a substance for which there is an approved new drug application; or
 - (C) a substance with respect to which an exemption is in effect for investigational use by a particular person under section 505 of the federal food, drug, and cosmetic act (21 U.S.C. §355) to the extent conduct with respect to the substance is permitted by the exemption.
- (cc) “Mid-level practitioner” means an advanced *practice* registered nurse issued a *license* pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed under the physician assistant licensure act who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-28a08, and amendments thereto.

65-4105 Substances included in schedule I

Amended 2011

- (a) The controlled substances listed in this section are included in schedule I and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.
- (b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:
- (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide) 9815
 - (2) Acetylmethadol 9601
 - (3) Allylprodine 9602
 - (4) Alphacetylmethadol 9603
(except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate or LAAM)
 - (5) Alphameprodine 9604
 - (6) Alphamethadol 9605
 - (7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N- propanilido) piperidine) 9814
 - (8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl) ethyl-4-piperidinyl]-N-phenylpropanamide) 9832
 - (9) Benzethidine 9606
 - (10) Betacetylmethadol 9607
 - (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide) 9830
 - (12) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide) 9831

(13) Betameprodine	9608
(14) Betamethadol	9609
(15) Betaprodine	9611
(16) Clonitazene	9612
(17) Dextromoramide	9613
(18) Diampromide	9615
(19) Diethylthiambutene	9616
(20) Difenoxin	9168
(21) Dimenoxadol	9617
(22) Dimepheptanol	9618
(23) Dimethylthiambutene	9619
(24) Dioxaphetyl butyrate	9621
(25) Dipipanone	9622
(26) Ethylmethylthiambutene	9623
(27) Etonitazene	9624
(28) Etoxidine	9625
(29) Furethidine	9626
(30) Hydroxypethidine	9627
(31) Ketobemidone	9628
(32) Levomoramide	9629
(33) Levophenacymorphan	9631
(34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide)	9813
(35) 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl) ethyl-4-piperidiny)]-N-phenylpropanamide)	9833
(36) Morpheridine	9632
(37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine)	9661
(38) Noracymethadol	9633
(39) Norlevorphanol	9634
(40) Normethadone	9635
(41) Norpipanone	9636
(42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl) -4-piperidiny]] propanamide	9812
(43) PEPAP (1-(-2-phenethyl)-4-phenyl -4-acetoxypiperidine)	9663
(44) Phenadoxone	9637
(45) Phenampromide	9638
(46) Phenomorphan	9647
(47) Phenoperidine	9641
(48) Piritramide	9642
(49) Proheptazine	9643
(50) Properidine	9644
(51) Propiram	9649
(52) Racemoramide	9645
(53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidiny]]- propanamide	9835
(54) Tilidine	9750
(55) Trimeperidine	9646

(c) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine	9319
(2) Acetyldihydrocodeine	9051
(3) Benzylmorphine	9052
(4) Codeine methylbromide	9070
(5) Codeine-N-Oxide	9053
(6) Cyprenorphine	9054
(7) Desomorphine	9055
(8) Dihydromorphine	9145
(9) Drotebanol	9335

(10) Etorphine (except hydrochloride salt)	9056
(11) Heroin	9200
(12) Hydromorphenol	9301
(13) Methyldesorphine	9302
(14) Methyldihydromorphine	9304
(15) Morphine methylbromide	9305
(16) Morphine methylsulfonate	9306
(17) Morphine-N-Oxide	9307
(18) Myrophine	9308
(19) Nicocodeine	9309
(20) Nicomorphine	9312
(21) Normorphine	9313
(22) Pholcodine	9314
(23) Thebacon	9315

(d) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) 4-bromo-2,5-dimethoxy-amphetamine	7391
Some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA	
(2) 2,5-dimethoxyamphetamine	7396
Some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA	
(3) 4-methoxyamphetamine	7411
Some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA	
(4) 5-methoxy-3,4-methylenedioxy-amphetamine	7401
(5) 4-methyl-2,5-dimethoxy-amphetamine	7395
Some trade or other names: 4-methyl-2,5-dimethoxy- alpha-methylphenethylamine; "DOM"; and "STP"	
(6) 3,4-methylenedioxy amphetamine	7400
(7) 3,4-methylenedioxymethamphetamine (MDMA)	7405
(8) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha- methyl-3,4 (methyl-enedioxy) phenethylamine, N-ethyl MDA, MDE, and MDEA)	7404
(9) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha- methyl-3,4(methylenedioxy) phenethylamine, and N-hydroxy MDA)	7402
(10) 3,4,5-trimethoxy amphetamine	7390
(11) Bufotenine	7433
Some trade or other names: 3-(Beta-Dimethyl-aminoethyl)-5-hydroxyindole; 3-(2-dimethyl-aminoethyl)-5-indolol; N,N- dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine	
(12) Diethyltryptamine	7434
Some trade or other names: N,N-Diethyltryptamine; DET	
(13) Dimethyltryptamine	7435
Some trade or other names: DMT	
(14) Ibogaine	7260
Some trade or other names: 7-Ethyl-6,6 Beta,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido[1',2':1,2] azepino [5,4-b] indole; Tabernanthe iboga	
(15) Lysergic acid diethylamide	7315
(16) Marihuana	7360
(17) Mescaline	7381
(18) Parahexyl	7374
Some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl	

(19) Peyote	7415
Meaning all parts of the plant presently classified botanically as <i>Lophophora williamsii</i> Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture or preparation of such plant, its seeds or extracts	
(20) N-ethyl-3-piperidyl benzilate	7482
(21) N-methyl-3-piperidyl benzilate	7484
(22) Psilocybin	7437
(23) Psilocyn	7438
(24) Ethylamine analog of phencyclidine	7455
Some trade or other names: N-ethyl-1-phenyl- cyclo-hexylamine; (1- phenylcyclohexyl)ethyl-amine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE.	
(25) Pyrrolidine analog of phencyclidine	7458
Some trade or other names: 1-(1-phenylcyclo- hexyl)-pyrrolidine; PCPy; PHP	
(26) Thiophene analog of phencyclidine	7470
Some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine; 2-thienylanalog of phency- clidine; TPCP;TCP	
(27) 1-[1-(2-thienyl)-cyclohexyl] pyrrolidine	7473
Some other names: TCPy	
(28) 2,5-dimethoxy-4-ethylamphetamine	7399
Some trade or other names: DOET	
(29) <i>Salvia divinorum</i> or <i>salvinorum A</i> ; all parts of the plant presently classified botanically as <i>salvia divinorum</i> , whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture or preparation of such plant, its seeds or extracts	
(30) <i>Datura stramonium</i> , commonly known as gypsum weed or jimson weed; all parts of the plant presently classified botanically as <i>datura stramonium</i> , whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture or preparation of such plant, its seeds or extracts	
(31) N-benzylpiperazine	7493
Some trade or other names: BZP.	
(32) 1-(3-[trifluoromethylphenyl]) piperazine	
Some trade or other names: TFMPP.	
(33) <i>4-Bromo-2,5-dimethoxyphenethylamine</i>	7392
(34) <i>2,5-dimethoxy-4-(n)-propylthiopenenthylamine (2C7), its optical isomers, salts and salts of optical isomers</i>	7348
(35) <i>Alpha-methyltryptamine (other name: AMT)</i>	7432
(36) <i>5-methoxy-N, N-diisopropyltryptamine (5-MeO-DIPT), its isomers, salts and salts of isomers</i>	7439
(e) Any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:	
(1) Mecloqualone	2572
(2) Methaqualone	2565
(3) Gamma hydroxybutyric acid	
(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:	
(1) Fenethylamine	1503
(2) N-ethylamphetamine	1475
(3) (+)cis-4-methylaminorex ((+)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine)	1590

- (4) N,N-dimethylamphetamine (also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine) 1480
- (5) Cathinone (some other names: 2-amino-1-phenol-1-propanone, alpha-amino propiophenone, 2-amino propiophenone and norphedrone) 1235
- (6) Substituted cathinones**
- Any compound, except bupropion or compounds listed under a different schedule, structurally derived from 2aminopropanone by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in any of the following ways:*
- (A) By substitution in the ring system to any extent with alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents;*
- (B) by substitution at the 3-position with an acyclic alkyl substituent;*
- (C) by substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups; or*
- (D) by inclusion of the 2-amino nitrogen atom in a cyclic structure.*
- (g) Any material, compound, mixture or preparation which contains any quantity of the following substances:
- (1) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts and salts of isomers 9818
- (2) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers 9834
- (3) Aminorex (some other names: Aminoxaphen 2-amino-5-phenyl-2-oxazoline or 4,5-dihydro-5-phenyl-2-oxazolamine, its salts, optical isomers and salts of optical isomers) 1585
- (4) Alpha-ethyltryptamine, its optical isomers, salts and salts of isomers 7249
Some other names: etryptamine, alpha-methyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole.
- (h) Any of the following cannabinoids, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:**
- (1) Tetrahydrocannabinols 7370**
- Meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers Delta 3,4 cis or trans tetrahydrocannabinol, and its optical isomers (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)*
- (2) Naphthoylindoles**
- Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent.*
- (3) Naphthylmethylindoles**
- Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent.*

(4) Naphthoypyrroles

Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent.

(5) Naphthylmethylindenes

Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent.

(6) Phenylacetylindoles

Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent.

(7) Cyclohexylphenols

Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent.

(8) Benzoylindoles

Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent.

(9) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1, 4-benzoxazin-6-yl]-1-naphthylmethanone.

Some trade or other names: WIN 55,212-2.

(10) 9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10, 10a-tetrahydrobenzo[c]chromen-1-ol.

Some trade or other names: HU-210, HU-211.

65-4107 Substances included in schedule II

Amended 2011

- (a) The controlled substances listed in this section are included in schedule II and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.
- (b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by combination of extraction and chemical synthesis:
- (1) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone and naltrexone and their respective salts, but including the following:
- | | |
|-----------------------|------|
| (A) Raw opium | 9600 |
| (B) Opium extracts | 9610 |
| (C) Opium fluid | 9620 |
| (D) Powdered opium | 9639 |
| (E) Granulated opium | 9640 |
| (F) Tincture of opium | 9630 |
| (G) Codeine | 9050 |
| (H) Ethylmorphine | 9190 |

(I) Etorphine hydrochloride	9059
(J) Hydrocodone	9193
(K) Hydromorphone	9150
(L) Metopon	9260
(M) Morphine	9300
(N) Oxycodone	9143
(O) Oxymorphone	9652
(P) Thebaine	9333
(Q) Dihydroetorphine	9334
(R) Oripavine	9330

(2) Any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves (9040) and any salt, compound, derivative or preparation of coca leaves, but not including decocainized coca leaves or extractions which do not contain cocaine (9041) or ecgonine (9180).

(5) Cocaine, its salts, isomers and salts of isomers (9041).

(6) Ecgonine, its salts, isomers and salts of isomers (9180).

(7) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy) (9670).

(c) Any of the following opiates, including their isomers, esters, ethers, salts and salts of isomers, esters and ethers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation dextrophan and levopropoxyphene excepted:

(1) Alfentanil	9737
(2) Alphaprodine	9010
(3) Anileridine	9020
(4) Bezitramide	9800
(5) Bulk dextropropoxyphene (nondosage forms)	9273
(6) Carfentanil	9743
(7) Dihydrocodeine	9120
(8) Diphenoxylate	9170
(9) Fentanyl	9801
(10) Isomethadone	9226
(11) Levomethorphan	9210
(12) Levorphanol	9220
(13) Metazocine	9240
(14) Methadone	9250
(15) Methadone-intermediate, 4-cyano-2-dimethyl amino-4,4-diphenyl butane	9254
(16) Moramide-intermediate, 2-methyl-3-morphol-ino-1,1-diphenylpropane-carboxylic acid	9802
(17) Pethidine (meperidine)	9230
(18) Pethidine-intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine	9232
(19) Pethidine-intermediate-B, ethyl-4-phenyl-piperidine-4-carboxylate	9233
(20) Pethidine-intermediate-C, 1-methyl-4-phenyl-piperidine-4-carboxylic acid	9234
(21) Phenazocine	9715
(22) Piminodine	9730
(23) Racemethorphan	9732
(24) Racemorphan	9733
(25) Sufentanil	9740
(26) Levo-alpha-acetyl methadol	9648

Some other names: levo-alpha-acetyl methadol, levomethadyl acetate or LAAM.

(27) Remifentanil	9739
(28) Tapentadol	9780

(d) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers and salts of its optical isomers	1100
(2) Phenmetrazine and its salts	1631
(3) Methamphetamine, including its salts, isomers and salts of isomers	1105
(4) Methylphenidate	1724
(5) <i>Lisdexamfetamine, its salts, isomers, and salts of its isomers</i>	1205
(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:	
(1) Amobarbital	2125
(2) Glutethimide	2550
(3) Secobarbital	2315
(4) Pentobarbital	2270
(5) Phencyclidine	7471
(f) Any material, compound, mixture, or preparation which contains any quantity of the following substances:	
(1) Immediate precursor to amphetamine and methamphetamine:	
(A) Phenylacetone	8501
Some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.	
(2) Immediate precursors to phencyclidine (PCP):	
(A) 1-phenylcyclohexylamine	7460
(B) 1-piperidinocyclohexanecarbonitrile (PCC)	8603
(g) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substance, its salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:	
Nabilone	7379
[Another name for nabilone: (+-)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one]	

65-4109 Substances included in schedule III

Amended 2011

(a) The controlled substances listed in this section are included in schedule III and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.	
(b) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:	
(1) Any compound, mixture or preparation containing:	
(A) Amobarbital	2126
(B) Secobarbital	2316
(C) Pentobarbital	2271
or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.	
(2) Any suppository dosage form containing:	
(A) Amobarbital	2126
(B) Secobarbital	2316
(C) Pentobarbital	2271
or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository.	
(3) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules	
	2100
(4) Chlorhexadol	2510

(5) Lysergic acid	7300
(6) Lysergic acid amide	7310
(7) Methyprylon	2575
(8) Sulfondiethylmethane	2600
(9) Sulfonethylmethane	2605
(10) Sulfonmethane	2610
(11) Tiletamine and zolazepam or any salt thereof	7295
Some trade or other names for a tiletamine-zolazepam combination product: Telazol	
Some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone	
Some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3, 8-trimethyl-pyrazolo-[3,4-e	
[1,4]-diazepin-7(1H)-one, flupyrazapon	
(12) Ketamine, its salts, isomers, and salts of isomers.	7285
Some other names for ketamine: (+-)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone	
(13) Gamma hydroxybutyric acid, any salt, hydroxy-butyrlic compound, derivative or preparation of gamma hydroxybutyric acid contained in a drug product for which an application has been approved under section 505 of the federal food, drug and cosmetic act.	
(14) Embutramide	2020
(c) Nalorphine	9400
(d) Any material, compound, mixture or preparation containing any of the following narcotic drugs or any salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:	
(1) Not more than 1.8 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit with an equal or greater quantity of an isoquinoline alkaloid of opium	9803
(2) not more than 1.8 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts	9804
(3) not more than 300 milligrams of dihydrocodeinone (hydrocodone) or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with a fourfold or greater quantity of an isoquinoline alkaloid of opium	9805
(4) not more than 300 milligrams of dihydrocodeinone (hydrocodone) or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts	9806
(5) not more than 1.8 grams of dihydrocodeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts	9807
(6) not more than 300 milligrams of ethylmorphine or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts	9808
(7) not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts	9809
(8) not more than 50 milligrams of morphine or any of its salts per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts	9810
(9) any material, compound, mixture or preparation containing any of the following narcotic drugs or their salts, as set forth below:	
(A) Buprenorphine	9064
(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:	

(1) Those compounds, mixtures or preparations in dosage unit form containing any stimulant substance listed in schedule II, which compounds, mixtures or preparations were listed on August 25, 1971, as excepted compounds under section 308.32 of title 21 of the code of federal regulations, and any other drug of the quantitative composition shown in that list for those drugs or which is the same, except that it contains a lesser quantity of controlled substances	1405
(2) Benzphetamine	1228
(3) Chlorphentermine	1645
(4) Clortermine	1647
(5) Phendimetrazine	1615
(f) Anabolic steroids	4000

“Anabolic steroid” means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes:

- (1) boldenone
- (2) chlorotestosterone (4-chlortestosterone)
- (3) clostebol
- (4) dehydrochlormethyltestosterone
- (5) dihydrotestosterone (4-dihydrotestosterone)
- (6) drostanolone
- (7) ethylestrenol
- (8) fluoxymesterone
- (9) formebulone (formebolone)
- (10) mesterolone
- (11) methandienone
- (12) methandranone
- (13) methandriol
- (14) methandrostenolone
- (15) methenolone
- (16) methyltestosterone
- (17) mibolerone
- (18) nandrolone
- (19) norethandrolone
- (20) oxandrolone
- (21) oxymesterone
- (22) oxymetholone
- (23) stanolone
- (24) stanozolol
- (25) testolactone
- (26) testosterone
- (27) trenbolone

(28) any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth.

(A) Except as provided in (B), such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the United States’ secretary of health and human services for such administration

(B) If any person prescribes, dispenses or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed or distributed an anabolic steroid within the meaning of this subsection (f).

(g) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substance, its salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States food and drug administration approved product

Some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6-6-9-trimethyl-3-pentyl-6H-dibenzo (b,d)pyran-1-0l, or (-)-delta-9-(trans)-tetrahydrocannabinol.

(h) The board may except by rule any compound, mixture or preparation containing any stimulant or depressant substance listed in subsection (b) from the application of all or any part of this act if the compound, mixture or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

65-4111 Substances included in schedule IV

Amended 2011

(a) The controlled substances listed in this section are included in schedule IV and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.
(b) Any material, compound, mixture or preparation which contains any quantity of the following substances including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation and having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Alprazolam	2882
(2) Barbitol	2145
(3) Bromazepam	2748
(4) Camazepam	2749
(5) Chloral betaine	2460
(6) Chloral hydrate	2465
(7) Chlordiazepoxide	2744
(8) Clobazam	2751
(9) Clonazepam	2737
(10) Clorazepate	2768
(11) Clotiazepam	2752
(12) Cloxazolam	2753
(13) Delorazepam	2754
(14) Diazepam	2765
(15) Dichloralphenazone	2467
(16) Estazolam	2756
(17) Ethchlorvynol	2540
(18) Ethinamate	2545
(19) Ethyl loflazepate	2758
(20) Fludiazepam	2759
(21) Flunitrazepam	2763
(22) Flurazepam	2767
(23) Fospropofol	2138
(24) Halazepam	2762
(25) Haloxazolam	2771
(26) Ketazolam	2772
(27) Loprazolam	2773
(28) Lorazepam	2885
(29) Lormetazepam	2774
(30) Mebutamate	2800
(31) Medazepam	2836
(32) Meprobamate	2820
(33) Methohexital	2264
(34) Methylphenobarbital (mephobarbital)	2250
(35) Midazolam	2884
(36) Nimetazepam	2837
(37) Nitrazepam	2834
(38) Nordiazepam	2838
(39) Oxazepam	2835
(40) Oxazolam	2839
(41) Paraldehyde	2585

(42) Petrichloral	2591
(43) Phenobarbital	2285
(44) Pinazepam	2883
(45) Prazepam	2764
(46) Quazepam	2881
(47) Temazepam	2925
(48) Tetrazepam	2886
(49) Triazolam	2887
(50) Zolpidem	2783
(51) Zaleplon	2781
(52) Zopiclone	2784

(c) Any material, compound, mixture, or preparation which contains any quantity of fenfluramine (1670), including its salts, isomers (whether optical, position or geometric) and salts of such isomers, whenever the existence of such salts, isomers and salts of isomers is possible. The provisions of this subsection (c) shall expire on the date fenfluramine and its salts and isomers are removed from schedule IV of the federal controlled substances act (*21 U.S.C. §812*; 21 code of federal regulations 1308.14).

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Cathine ((+)-norpseudoephedrine)	1230
(2) Diethylpropion	1610
(3) Fencamfamin	1760
(4) Fenproporex	1575
(5) Mazindol	1605
(6) Mefenorex	1580
(7) Pemoline (including organometallic complexes and chelates thereof)	1530
(8) Phentermine	1640

The provisions of this subsection (d)(8) shall expire on the date phentermine and its salts and isomers are removed from schedule IV of the federal controlled substances act (*21 U.S.C. §812*; 21 code of federal regulations 1308.14).

(9) Pipradrol	1750
(10) SPA((-)-1-dimethylamino-1,2-diphenylethane)	1635
(11) Sibutramine	1675
(12) Mondafinil	1680

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following, including salts thereof:

(1) Pentazocine	9709
(2) Butorphanol (including its optical isomers)	9720

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit	9167
(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane)	9278

(g) Butyl nitrite and its salts, isomers, esters, ethers or their salts.

(h) The board may except by rule and regulation any compound, mixture or preparation containing any depressant substance listed in subsection (b) from the application of all or any part of this act if the compound, mixture or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

65-4113 Substances included in schedule V

Amended 2011

- (a) The controlled substances or drugs, by whatever official name, common or usual name, chemical name or brand name designated, listed in this section are included in schedule V.
- (b) Any compound, mixture or preparation containing limited quantities of any of the following narcotic drugs which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:
- (1) Not more than 200 milligrams of codeine or any of its salts per 100 milliliters or per 100 grams.
 - (2) Not more than 100 milligrams of dihydrocodeine or any of its salts per 100 milliliters or per 100 grams.
 - (3) Not more than 100 milligrams of ethylmorphine or any of its salts per 100 milliliters or per 100 grams.
 - (4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.
 - (5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.
 - (6) Not more than .5 milligram of difenoxin (9168) and not less than 25 micrograms of atropine sulfate per dosage unit.
- (c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:
- (1) Propylhexedrine (except when part of a compound used for nasal decongestion which is authorized to be sold lawfully over the counter without a prescription under the federal food, drug and cosmetic act, so long as it is used only for such purpose) 8161
 - (2) Pyrovalerone 1485
- (d) Any compound, mixture or preparation containing any detectable quantity of ephedrine, its salts or optical isomers, or salts of optical isomers.
- (e) Any compound, mixture or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers.
- (f) *Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:*
- (1) *Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide]* 2746
 - (2) *Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid]* 2782

65-4167 Trafficking in counterfeit drugs

(UPOC §10.23)

- (a) Trafficking in counterfeit drugs is intentionally manufacturing, distributing, dispensing, selling or delivering for consumption purposes, or holding or offering for sale, any counterfeit drug.
- (b) Trafficking in counterfeit drugs which have a retail value of less than \$500 is a class A nonperson misdemeanor, trafficking in counterfeit drugs which have a retail value of at least \$500 but less than \$25,000 is a severity level 9, nonperson felony and trafficking in counterfeit drugs which have a retail value of \$25,000 or more is a severity level 7, nonperson felony.
- (c) A pharmacy which is inadvertently in possession of counterfeit drugs may return those drugs to the supplier who provided the drugs to the pharmacy.

75-7c10 Posted places where carrying concealed weapon not authorized

- (a) Provided that the premises are conspicuously posted in accordance with rules and regulations adopted by the attorney general as premises where carrying a concealed handgun is prohibited, no license issued pursuant to or recognized by this act shall authorize the licensee to carry a concealed handgun into the building of:
- (1) Any place where an activity declared a common nuisance by K.S.A. 22-3901, and amendments thereto, is maintained;
 - (2) any police, sheriff or highway patrol station;

- (3) any detention facility, prison or jail;
 - (4) any courthouse, except that nothing in this section would preclude a judge from carrying a concealed handgun or determining who may carry a concealed handgun in the judge's courtroom;
 - (5) any polling place on the day an election is held;
 - (6) any state office;
 - (7) any facility hosting an athletic event not related to or involving firearms which is sponsored by a private or public elementary or secondary school or any private or public institution of postsecondary education;
 - (8) any facility hosting a professional athletic event not related to or involving firearms;
 - (9) any drinking establishment as defined by K.S.A. 41-2601, and amendments thereto;
 - (10) any elementary or secondary school, attendance center, administrative office, services center or other facility;
 - (11) any community college, college or university;
 - (12) any child exchange and visitation center provided for in K.S.A. 75-720, and amendments thereto;
 - (13) any community mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto; any mental health clinic organized pursuant to K.S.A. 65-211 et seq., and amendments thereto; any psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto; or a state psychiatric hospital, as follows: Larned state hospital, Osawatomie state hospital or Rainbow mental health facility;
 - (14) any public library operated by the state;
 - (15) any day care home or group day care home, as defined in Kansas administrative regulation 28-4-113, or any preschool or childcare center, as defined in Kansas administrative regulation 28-4-420; or
 - (16) any place of worship.
- (b) Nothing in this act shall be construed to prevent:
- (1) Any public or private employer from restricting or prohibiting by personnel policies persons licensed under this act from carrying a concealed handgun while on the premises of the employer's business or while engaged in the duties of the person's employment by the employer, except that no employer may prohibit possession of a handgun in a private means of conveyance, even if parked on the employer's premises; or
 - (2) any private business or city, county or political subdivision from restricting or prohibiting persons licensed or recognized under this act from carrying a concealed handgun within a building or buildings of such entity, provided that the premises are posted in accordance with rules and regulations adopted by the attorney general pursuant to subsection (f), as premises where carrying a concealed handgun is prohibited.
- (c)(1) It shall be a violation of this section to carry a concealed handgun in violation of any restriction or prohibition allowed by subsection (a) or (b) if the premises are posted in accordance with rules and regulations adopted by the attorney general pursuant to subsection (f). Any person who violates this section shall be guilty of a misdemeanor punishable by a fine of: (A) Not more than \$50 for the first offense; or (B) not more than \$100 for the second offense. Any third or subsequent offense is a class B misdemeanor.
- (2) Notwithstanding the provisions of subsection (a) or (b), it is not a violation of this section for the United States attorney for the district of Kansas, the attorney general, any district attorney or county attorney, any assistant United States attorney if authorized by the United States attorney for the district of Kansas, any assistant attorney general if authorized by the attorney general, or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed, to possess a handgun within any of the buildings described in subsection (a) or (b), subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district. The provisions of this paragraph shall not apply to any person who is not in compliance with K.S.A. 75-7c19, and amendments thereto.
- (d) For the purposes of this section, "building" shall not include any structure, or any area of any structure, designated for the parking of motor vehicles.
- (e) Nothing in this act shall be construed to authorize the carrying or possession of a handgun where prohibited by federal law.

- (f) The attorney general shall adopt rules and regulations prescribing the location, content, size and other characteristics of signs to be posted on premises where carrying a concealed handgun is prohibited pursuant to subsections (a) and (b). Such regulations shall prescribe, at a minimum, that:
- (1) The signs be posted at all exterior entrances to the prohibited buildings;
 - (2) they be posted at eye level of adults using the entrance and not more than 12 inches to the right or left of such entrance;
 - (3) the signs not be obstructed or altered in any way; and
 - (4) signs which become illegible for any reason be immediately replaced.

75-7c12 Carrying concealed weapon while under influence of alcohol or drugs

- (a) Except as otherwise provided in this section, a licensee under the influence of alcohol or an illegally used controlled substance, to such a degree as to render such licensee incapable of safely operating a handgun, who knowingly possesses or carries a loaded handgun on or about the licensee, or within the licensee's immediate access and control while in a vehicle, commits a class A nonperson misdemeanor.
- (b) This section shall not apply to any of the following:
- (1) A licensee who possesses or carries a handgun while in the licensee's own dwelling or place of business or on land owned or possessed by the licensee; or
 - (2) the transitory possession or use of a handgun during an act committed in self-defense or in defense of another person or any other act committed if legally justified or excused, provided such possession or use lasts no longer than is immediately necessary.
- (c) An officer shall have probable cause to believe that the licensee used or attempted to use a concealed handgun under the influence of alcohol or drugs, or both, if the handgun was operated by the licensee in such a manner as to have caused death of, or serious injury to, a person. In such event, one or more tests of the licensee's blood, breath, urine or other bodily substance to determine the presence of alcohol, drugs, or both, may be made pursuant to a search warrant issued under the authority of K.S.A. 22-2502, and amendments thereto, or without a search warrant under the authority of K.S.A. 22-2501, and amendments thereto. As used in this section, "serious injury" shall be defined in accordance with K.S.A. 8-1001, and amendments thereto.
- (d) The test or tests shall be administered in the manner provided by for administration of tests for alcohol or drugs pursuant to K.S.A. 8-1001, and amendments thereto. Notwithstanding any provisions of K.S.A. 8-1001, and amendments thereto, to the contrary, any testing to determine impairment shall be through the voluntary consent of the licensee to be tested or as prescribed in subsection (c), and no licensee shall be deemed to have consented to such testing solely by the use or attempted use of a concealed handgun.
- (e) If a licensee is subject to subsection (c) and refuses to submit to and complete any test of breath, blood or urine requested by a law enforcement officer, the licensee's license to carry a concealed handgun shall be revoked for a minimum of one year for a first offense and three years for a second or subsequent offense.
- (f) If the licensee submits to and completes the test or tests and the test results show an alcohol concentration of .08 or greater or shows the presence of a drug or drugs which render the licensee incapable of safely handling a handgun, the licensee's license to carry a concealed handgun shall be revoked for a minimum of one year for a first offense and three years for a second or subsequent offense.
- (g) In any criminal prosecution for carrying a concealed handgun while under the influence of alcohol or drugs, or both, evidence of the concentration of alcohol or drugs in the defendant's blood, urine, breath or other bodily substance may be admitted and shall give rise to the following:
- (1) If the alcohol concentration is less than .08, that fact may be considered with other competent evidence to determine if the defendant was under the influence of alcohol, or both alcohol and drugs as it applies in subsection (a).
 - (2) If the alcohol concentration is .08 or more, it shall be prima facie evidence that the defendant was under the influence of alcohol as it applies in subsection (a).
 - (3) If there was present in the defendant's bodily substance any narcotic, hypnotic, somnifacient, stimulating or other drug which has the capacity to render the defendant incapacitated, that fact may be considered

to determine if the defendant was under the influence of drugs, or both alcohol and drugs as it applies in subsection (a).

- (h) The provisions of subsection (b) shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether or not the defendant was under the influence of alcohol or drugs, or both.
- (i) Nothing in this section shall be construed to limit the admissibility at any trial of alcohol or drug concentration testing results obtained pursuant to a search warrant or voluntary testing, but no person shall be deemed to have implied consent to mandatory testing by obtaining a concealed handgun license or by carrying a concealed handgun under the terms of this act.
- (j) Upon the request of any person submitting to testing under subsection (c), a report of the results of the testing shall be made available to such person.
- (k) The provisions of K.S.A. 8-1023 and 8-1024, and amendments thereto, shall be applicable and followed during any administration or enforcement of this section.

79-3321 Unlawful acts [Tobacco offenses]

(UPOC §§5.6 & 5.7)¹

It shall be unlawful for any person:

- (a) To possess, except as otherwise specifically provided by this act, more than 200 cigarettes without the required tax indicia being affixed as herein provided.
- (b) To mutilate or attach to any individual package of cigarettes any stamp that has in any manner been mutilated or that has been heretofore attached to a different individual package of cigarettes or to have in possession any stamps so mutilated.
- (c) To prevent the director or any officer or agent authorized by law, to make a full inspection for the purpose of this act, of any place of business and all premises connected thereto where cigarettes are or may be manufactured, sold, distributed, or given away.
- (d) To use any artful device or deceptive practice to conceal any violation of this act or to mislead the director or officer or agent authorized by law in the enforcement of this act.
- (e) Who is a dealer to fail to produce on demand of the director or any officer or agent authorized by law any records or invoices required to be kept by such person.
- (f) Knowingly to make, use, or present to the director or agent thereof any falsified invoice or falsely state the nature or quantity of the goods invoiced.
- (g) Who is a dealer to fail or refuse to keep and preserve for the time and in the manner required by this act all the records required by this act to be kept and preserved.
- (h) To wholesale cigarettes to any person, other than a manufacturer's salesperson, retail dealer or wholesaler who is:
 - (1) Duly licensed by the state where such manufacturer's salesperson, retail dealer or wholesaler is located; or
 - (2) exempt from state licensing under applicable state or federal laws or court decisions including any such person operating as a retail dealer upon land allotted to or held in trust for an Indian tribe recognized by the United States bureau of Indian affairs.
- (i) To have in possession any evidence of tax indicia provided for herein not purchased from the director.
- (j) To fail or refuse to permit the director or any officer or agent authorized by law to inspect a carrier transporting cigarettes.
- (k) To vend small cigars, or any products so wrapped as to be confused with cigarettes, from a machine vending cigarettes, nor shall a vending machine be so built to vend cigars or products that may be confused with cigarettes, be attached to a cigarette vending machine.
- (l) To sell, furnish or distribute cigarettes or tobacco products to any person under 18 years of age.
- (m) Who is under 18 years of age to purchase or attempt to purchase cigarettes or tobacco products.
- (n) Who is under 18 years of age to possess or attempt to possess cigarettes or tobacco products.
- (o) To sell cigarettes to a retailer or at retail that do not bear Kansas tax indicia or upon which the Kansas cigarette tax has not been paid.

- (p) To sell cigarettes without having a license for such sale as provided herein.
- (q) To sell a vending machine without having a vending machine distributor's license.
- (r) Who is a retail dealer to fail to post and maintain in a conspicuous place in the dealer's establishment the following notice: "By law, cigarettes and tobacco products may be sold only to persons 18 years of age and older."
- (s) To distribute samples within 500 feet of any school when such facility is being used primarily by persons under 18 years of age unless the sampling is:
 - (1) In an area to which persons under 18 years of age are denied access;
 - (2) in or at a retail location where cigarettes and tobacco products are the primary commodity offered for sale at retail; or
 - (3) at or adjacent to an outdoor production, repair or construction site or facility.
- (t) To sell cigarettes or tobacco products by means of a vending machine in any establishment, or portion of an establishment, which is open to minors, except that this subsection shall not apply to:
 - (1) The installation and use by the proprietor of the establishment, or by the proprietor's agents or employees, of vending machines behind a counter, or in some place in such establishment, or portion thereof, to which minors are prohibited by law from having access;
 - (2) the installation and use of a vending machine in a commercial building or industrial plant, or portions thereof, where the public is not customarily admitted and where machines are intended for the sole use of adult employees employed in the building or plant; or
 - (3) a vending machine which has a lock-out device which is inoperable in the continuous standby mode and which requires manual activation by the person supervising the operation of the machine each time cigarettes or tobacco products are purchased from the machine.
- (u) To sell cigarettes or tobacco products by means of a self-service display in any establishment, except that the provisions of this subsection shall not apply to:
 - (1) A vending machine that is permitted under subsection (t); or
 - (2) a self-service display that is located in a tobacco specialty store.
- (v) To sell or distribute in this state; to acquire, hold, own, possess or transport for sale or distribution in this state; or to import or cause to be imported, into this state for sale or distribution in this state:
 - (1) Any cigarettes the package of which
 - (A) bears any statement, label, stamp, sticker or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed or used in the United States, including but not limited to, labels stating "For Export Only", "U.S. Tax-Exempt", "For Use Outside U.S." or similar wording; or
 - (B) does not comply with
 - (i) all requirements imposed by or pursuant to federal law regarding warnings and other information on packages of cigarettes manufactured, packaged or imported for sale, distribution or use in the United States, including but not limited to the precise warning labels specified in the federal cigarette labeling and advertising act, 15 U.S.C. 1333; and
 - (ii) all federal trademark and copyright laws;
 - (2) any cigarettes imported into the United States in violation of 26 U.S.C. 5754 or any other federal law, or federal regulations implementing such laws;
 - (3) any cigarettes that such person otherwise knows or has reason to know the manufacturer did not intend to be sold, distributed or used in the United States; or
 - (4) any cigarettes for which there has not been submitted to the secretary of the U.S. department of health and human services the list or lists of the ingredients added to tobacco in the manufacture of such cigarettes required by the federal cigarette labeling and advertising act, 15 U.S.C. 1335a.
- (w) To alter the package of any cigarettes, prior to sale or distribution to the ultimate consumer, so as to remove, conceal or obscure:
 - (1) Any statement, label, stamp, sticker or notice described in subsection (v); or
 - (2) any health warning that is not specified in, or does not conform with, the requirements of, the federal cigarette labeling and advertising act, 15 U.S.C. 1333.

(x) To affix any stamp required pursuant to K.S.A. 79-3311, and amendments thereto, to the package of any cigarettes described in subsection (v) or altered in violation of subsection (w).

¹Note: UPOC §5.6 relates to subsections (m) and (n), UPOC §5.7 relates to subsection (l).

79-3322 Penalties—Tobacco offenses

(UPOC §5.7)

(a) Any person who violates any of the provisions of the Kansas cigarette and tobacco products act, except as otherwise provided in this act, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000 or imprisonment for not more than one year, or by both. In addition thereto any person found liable for any license fee or tax imposed under the provisions of this act shall be personally liable for such license fee or tax plus a penalty in an amount equal to 100% thereof.

(b)(1) It is a class B person misdemeanor punishable by a minimum fine of \$200 for any person to:

(A) Sell, give or furnish any cigarettes or tobacco products to any person under 18 years of age; or

(B) buy any cigarettes or tobacco products for any person under 18 years of age.

(2) It shall be a defense to a prosecution under this subsection if:

(A) The defendant is a licensed retail dealer, or employee thereof, or a person authorized by law to distribute samples;

(B) the defendant sold, furnished or distributed the cigarettes or tobacco products to the person under 18 years of age with reasonable cause to believe the person was of legal age to purchase or receive cigarettes or tobacco products; and

(C) to purchase or receive the cigarettes or tobacco products, the person under 18 years of age exhibited to the defendant a driver's license, Kansas nondriver's identification card or other official or apparently official document containing a photograph of the person and purporting to establish that the person was of legal age to purchase or receive cigarettes or tobacco products.

(3) It shall be a defense to a prosecution under this subsection if:

(A) The defendant engages in the lawful sale, furnishing or distribution of cigarettes or tobacco products by mail; and

(B) the defendant sold, furnished or distributed the cigarettes or tobacco products to the person by mail only after the person had provided to the defendant an unsworn declaration, conforming to K.S.A. 53-601, and amendments thereto, that the person was 18 or more years of age.

(4) For purposes of this subsection the person who violates this subsection shall be the individual directly selling, furnishing or distributing the cigarettes or tobacco products to any person under 18 years of age or the retail dealer who has actual knowledge of such selling, furnishing or distributing by such individual or both.

(c) Violation of subsection (m) or (n) of K.S.A. 79-3321, and amendments thereto, is a cigarette or tobacco infraction for which the fine is \$25. In addition, the judge may require the juvenile to appear in court with a parent or legal guardian.

(d) Any agent, employees or others who aid, abet or otherwise participate in any way in the violation of the Kansas cigarette and tobacco products act or in any of the offenses hereunder punishable shall be guilty and punished as principals to the same extent as any person violating this act.

79-3333 Sale of cigarettes

(a) Each person engaged in the business of selling cigarettes to persons who reside in Kansas shall obtain a license as provided by the Kansas cigarette and tobacco products act.

(b) All cigarettes sold to persons who reside in Kansas shall have a valid Kansas cigarette tax stamp affixed to each package.

(c) All retail cigarette dealers, whether located in or outside the state of Kansas, shall have a registration certificate as provided in K.S.A. 79-3608, and amendments thereto, and be subject to the provisions of the Kansas retailers' sales tax act. Each licensed retail cigarette dealer selling cigarettes over the internet, telephone or other mail order transaction shall file all sales tax returns and remit taxes owed pursuant to K.S.A. 79-3607, and amendments thereto.

(d) All sales transactions over the internet, telephone or other mail order transaction shall not be completed, unless, before each delivery of cigarettes is made, whether through the mail, through a transportation company or any other delivery system, the seller has obtained from the purchaser a certification that includes a reliable confirmation that the purchaser is at least the legal minimum age to purchase cigarettes; that the cigarettes purchased are not intended for consumption by an individual who is younger than the legal minimum age to purchase cigarettes; and a written statement signed by the purchaser that certifies the purchaser's address and that the purchaser is at least the minimum legal age to purchase cigarettes. Such statement shall also confirm:

- (1) That the purchaser understands that signing another person's name to such certification is illegal;
- (2) that the sale of cigarettes to individuals under the legal minimum purchase age is illegal; and
- (3) that the purchase of cigarettes by individuals under the legal minimum purchase age is illegal under the laws of Kansas.

(e) The retail cigarette dealer shall verify the information contained in the certification provided by the purchaser against a commercially available database of governmental records, or obtain a photocopy or other image of the valid, government-issued identification stating the date of birth or age of the purchaser.

(f) All invoices, bills of lading, sales receipts and any other document related to the sale of cigarettes through the internet or other mail order transaction shall contain the current, valid retailer Kansas cigarette dealer license number, Kansas sales tax registration number, business name and address of the seller.

(g) All packages of cigarettes shipped from a cigarette dealer to purchasers who reside in Kansas shall clearly print the package with the word "CIGARETTES" on all sides of the package. In addition, such package shall contain an externally visible and easily legible notice located on the same side of the package as the address to which the package is delivered as follows:

"IF THESE CIGARETTES HAVE BEEN SHIPPED TO YOU FROM A SELLER LOCATED OUTSIDE OF THE STATE IN WHICH YOU RESIDE, THE SELLER HAS REPORTED PURSUANT TO FEDERAL LAW THE SALE OF THESE CIGARETTES TO YOUR STATE TAX COLLECTION AGENCY, INCLUDING YOUR NAME AND ADDRESS. YOU ARE LEGALLY RESPONSIBLE FOR ALL APPLICABLE UNPAID STATE TAXES ON THESE CIGARETTES."

(h) The provisions of this section [Sec. 79-3333] shall not apply to tobacco products, as defined in K.S.A. 79-3301, and amendments thereto.

(i) Violation of the provisions of subsection (a), (d) or (e) is a severity level 8, nonperson felony. Violation of any provision of this section other than the provisions of subsection (a), (d) or (e) is a misdemeanor and upon conviction shall be punishable by a fine of not more than \$1,000 or imprisonment for not more than one year, or both.

(j) The provisions of this section shall be part of and supplemental to the Kansas cigarette and tobacco products act.

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